

United States
Circuit Court of Appeals
For the Ninth Circuit.
Apostles.

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant Thereof,
Appellants,
vs.

INTER-ISLAND STEAM NAVIGATION COMPANY, LIMITED, an Hawaiian Corporation, Owner of the Steamers
"HELENE," "MIKAHALA," "LIKELIKE," and
"MAUNA KEA," for Itself, the Officers and Crews of
Said Steamers and Other Servants of Said Owners,
Appellee.

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant Thereof,
Appellants,
vs.

MILLER SALVAGE COMPANY, LIMITED, a Corporation,
Appellee.
and

The British Ship "CELTIC CHIEF," Her Tackle, etc., and
JOHN HENRY, Master and Claimant Thereof,
Appellants,
vs.

MATSON NAVIGATION COMPANY, a California Corporation,
Owner of the Tug "INTREPID," for Itself and the
Officers and Crew of Said Tug,
Appellee.

VOLUME I.
(Pages 1 to 416, Inclusive.) **Filed**

Upon Appeals from the United States District Court
for the Territory of Hawaii. JUL 2 1914

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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[Title of Appellate Court and Cause.]

Notice of Filing Apostles on Appeal and Appellants' Designation of Parts of Record to be Printed.

To the Inter-Island Steam Navigation Co., Ltd., and the Matson Navigation Co. and Their Proctors, Messrs. Smith, Warren & Hemenway, and to the Miller Salvage Co., Ltd., and Messrs. J. A. Magoon and P. L. Weaver, Its Proctors:

Please take notice that the apostles on appeal in the above causes consolidated for trial on appeal were filed in the above-entitled court on the 27th day of May, 1914; and

You are further notified that appellants intend to rely upon all of the assignments of error in said record, except the assignments in which the value of \$22,500 placed upon the ship "Celtic Chief" by the lower court is attacked, the same being part of assignment No. 9 in cases #115 and #116 and assignment No. 6 in case #117 (which last assignments as to said value will be relied upon, however, in case appellees themselves attack said finding and in case they fail to acquiesce in the designations hereinafter made for the omission of the testimony on said subject); and

You are further notified that appellants consider all of the record necessary for the consideration of their said assignments of error with the exception of the following pages of the record, and the following exhibits which appellants do not consider necessary to be printed in said record and desire to have omitted from said record as printed:

2 *The British Ship "Celtic Chief" et al. vs.*

1. Omit pages 2 to 29, inclusive, of the apostles, which pages contain orders extending time to file the apostles on appeal and insert in place thereof the following:

"By various orders the time of appellants to file the apostles on appeal was extended to May 31st, 1914, in all of the three cases involved, namely: Cases #115, #116 and #117."

2. Omit page 49: Order for attachment in case #115.
3. Omit page 56: Order for attachment in case #116.
4. Omit page 57: Order allowing libelee time to show cause in case #115.
5. Omit pages 58 to 60, inclusive: Monition to U. S. Marshal and marshal's return in case #115.
6. Omit pages 61 to 62, inclusive: Appearance of proctors for claimant in case #115.
7. Omit pages 63 to 65, inclusive: Claim in case #115.
8. Omit page 66: Order allowing libelee further time to show cause in case #115.
9. Omit page 67: Same in case #116.
10. Omit page 68: Appearance of proctors for claimant in case #116.
11. Omit pages 69 to 71, inclusive: Claim in case #116.
12. Omit page 72: Order allowing time to plead in case #115.
13. Omit p. 73: Order allowing time to plead in case #116.
14. Omit pp. 74 to 76 inclusive: Monition and marshal's return in case #116.

15. Omit pp. 77 to 78, inclusive: Stipulation for release of vessel in case #115.
16. Omit pp. 79 to 80, inclusive: Same in case #116.
17. Omit bottom of pp. 87 and 88: Order for attachment in case #117.
18. Omit p. 89: Appearance of proctors for claimants in case #117.
19. Omit pp. 90 to 92, inclusive: Claim in case #117.
20. Omit pp. 93 to 94, inclusive: Stipulation for release of vessel in case #117.
21. Omit pp. 95 to 97, inclusive: Monition and marshal's return in case #117.
22. Omit p. 98: Order of continuance in case #115.
23. Omit p. 99: Same in case #116.
24. Omit p. 100: Same in case #117.
25. Omit p. 101: Same in case #115.
26. Omit p. 102: Same in case #116.
27. Omit p. 103: Same in case #117.
28. Omit p. 128: Same in case #115.
29. Omit p. 129: Same in case #116.
30. Omit p. 130: Same in case #117.
31. Omit pp. 131 to 139, inclusive: Motions to consolidate cases and notices thereof.
32. Omit p. 143: Order of continuance for trial.
33. Omit pp. 144 to 149, inclusive: Orders of consolidation of the three causes in that said consolidation appears elsewhere by a minute order.
34. Omit pp. 150 to 155, inclusive: Affidavit of C. H. Olson on motion for commission to take

4 *The British Ship "Celtic Chief" et al. vs.*

 depositions of German witnesses.

35. Omit pp. 156 to 158, inclusive: Application, order and affidavit for fixing time for taking depositions of men on board "Celtic Chief."
36. Omit pp. 159-160, inclusive: Notice of taking said depositions.
37. Omit pp. 161 to 162, inclusive: Stipulation for taking said depositions.
38. Omit p. 163: Order of continuance.
39. Omit pp. 164 to 166, inclusive: Application for commission to take depositions of German witnesses and stipulation regarding same.
40. Omit pp. 167 to 169, inclusive: Application, order and affidavit for taking deposition of C. L. Wight.
41. Omit pp. 170 to 171, inclusive: Notice of taking deposition of C. L. Wight.
42. Omit p. 172: Minutes of hearing on application to take deposition of C. L. Wight.
43. Omit pp. 173 to 201, inclusive: Deposition of C. L. Wight regarding the value of the "Celtic Chief."
44. Omit pp. 202 to 207, inclusive: Affidavit of C. H. Olson in support of applications to take depositions of German witnesses.
45. Omit pp. 208 to 210, inclusive: Objections to application for commission to take depositions of German witnesses.
46. Omit p. 211: Minutes of hearing on objections to interrogatories to be propounded to witnesses.

47. Omit p. 212: Minute order regarding taking deposition of J. Metcalfe, A. F. Pillsbury and J. C. Eschen.
48. Omit pp. 213 to 220, inclusive: Application, affidavit supporting and notice of taking depositions of said witnesses.
49. Omit pp. 221 to 225, inclusive: Application, affidavit supporting and notice of taking depositions of John Hughes and W. W. Kellock.
50. Omit p. 226: Minutes of proceedings in regard to application to take depositions and order regarding interrogatories.
51. Omit pp. 227 to 228, inclusive: Objections to application to take depositions of Hughes and Kellock.
52. Omit p. 229: Minute order to open deposition of H. Haase.
53. Omit p. 230: Minutes of proceedings at opening of same.
54. Omit p. 231: Minutes of proceedings at opening of depositions of F. Connemann and H. Schroeder.
55. Omit p. 232: Minutes of proceedings at opening of depositions of John Hughes and machinists Wehburg and Baer.
56. Omit p. 233: Order setting causes for trial.
57. Omit p. 234: Order of continuance for trial.
58. Omit p. 235: Same.
59. Omit pp. 236 to 238, inclusive: Minutes of proceedings at trial.
60. Omit p. 239: Order of continuance of trial.

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61. Omit p. 240: Order setting cause for further trial.
62. Omit pp. 241 to 254, inclusive: Minutes of proceedings at trial.
63. Omit p. 255: Order of continuance of further trial.
64. Omit pp. 256 to 272, inclusive: Minutes of proceedings at trial.
65. Omit pp. 273 to 278, inclusive: Application to take, affidavit supporting and notice of taking deposition of J. W. McAllister.
66. Omit pp. 299 to 300, inclusive: Certificate to deposition of J. W. McAllister.
67. Omit pp. 301 to 306, inclusive: Application to take, affidavit supporting and notice of taking deposition of M. Barrett and order for same.
68. Omit p. 320: Certificate to deposition of M. Barrett.
69. Omit pp. 321 to 322, inclusive: Minutes of proceedings at trial.
70. Omit p. 323: Order for continuance of further trial.
71. Omit pp. 324 to 325, inclusive: Proceedings at trial.
72. Omit p. 326: Order of continuance of further trial.
73. Omit pp. 327 to 333, inclusive: Minutes of proceedings at trial.
74. Omit p. 335: Index to depositions of men on “Celtic Chief.”
75. Omit pp. 607 to 608, inclusive: Certificate to depositions of men on “Celtic Chief.”

76. Omit pp. 609 to 610, inclusive: Minutes of proceedings at trial.
77. Omit pp. 611 to 668, inclusive: Depositions of John Metcalfe, J. F. Pillsbury and J. C. Eschen and notices thereof.
(These depositions, however, are to be printed in case appellees designate into the record the testimony of C. L. Wight.)
78. Omit pp. 669 to 674, inclusive: Dedimus Potestatem for examination of John Hughes and order therefor.
79. Omit pp. 675 to 693, inclusive: Direct interrogatories to John Hughes, cross-interrogatories to same and deposition of John Hughes.
(These papers, however, are to be printed in case appellees designate into the record the testimony of C. L. Wight.)
80. Omit pp. 694 to 699 inclusive: Dedimus Potestatem for examination of W. W. Kellock and order therefor.
81. Omit pp. 700 to 722, inclusive: Direct interrogatories to W. W. Kellock, cross-interrogatories to same, and deposition of W. W. Kellock.
(These papers, however, are to be printed in case appellees designate into the record the testimony of C. L. Wight.)
82. Omit pp. 723 to 724, inclusive: Minutes of proceedings at trial.
83. Omit pp. 725 to 733, inclusive: Dedimus Potestatem for examination of H. Schroeder and order therefor.

8 *The British Ship "Celtic Chief" et al. vs.*

84. Omit pp. 741 to 748, inclusive: Objections to interrogatories to H. Schroeder.
85. Omit p. 778: Minutes of proceedings at trial.
86. Omit pp. 779 to 787, inclusive: Dedimus Potestatem for examination of F. M. Connemann and order therefor.
87. Omit pp. 795 to 798 inclusive: Objections to direct interrogatories to Lieut. F. M. Connemann.
88. Omit p. 829: Order for continuance of further trial.
89. Omit pp. 830 to 838, inclusive: Minutes of proceedings at trial.
90. Omit pp. 840 to 844, inclusive: Index to testimony, in that new index will be made up in Circuit Court of Appeals.
91. Omit p. 3375: Minutes of court as to reading and filing of decision.
92. Omit pp. 3427 to 3428, inclusive: Notice of final decree by Miller Salvage Co.
93. Omit p. 3440: Order extending time for filing bond on appeal in case #115.
94. Omit p. 3441: Same in case #116.
95. Omit p. 3442: Same in case #117.
96. Omit pp. 3443 to 3445, inclusive: Bond on appeal in case #115.
97. Omit pp. 3446 to 3448, inclusive: Same in case #116.
98. Omit pp. 3449 to 3451, inclusive: Same in case #117.
99. Omit p. 3453: Stipulation for amendment to final decree in case #117 in that the amendment sufficiently appears thereafter.

100. Omit pp. 3457 to 3462, inclusive: Stipulations for reduction in penalties of bonds.
101. Omit pp. 3478 to 3483, inclusive: Affidavits re-filing assignments of error.
102. Omit pp. 3484 to 3489, inclusive: Citations.
103. Omit pp. 3493 to 3497, inclusive: Praecepse for transcript of record.
104. All original exhibits sent up by the lower court for perusal of Circuit Court of Appeals, said exhibits being as follows:
 - (a) Libellees' Exh. 1 (Loncke drawing).
 - (b) Libellees' Exh. 2 (Loncke drawing).
 - (c) Libellees' Exh. 3 ("Celtic Chief" drawing).
 - (d) Libellees' Exh. 5 (Capt. Piltz diagram).
 - (e) Libellees' Exh. 6 (J. M. Dowsett's diagram).
 - (f) Libellees' Exh. 8 (drawing referred to in Capt. Haglund's testimony).
 - (g) Libellees' Exh. "R" (Comparison sheet introduced on evidence of W. W. Kellock).
 - (h) Libellees' Exh. "S" (Comparison sheet used on deposition of W. W. Kellock).
 - (i) Libelants' Exh. "A" (Lloyds Register in regard to "Celtic Chief").
 - (j) Libelants' Exh. "A" (Inter-Island and Matson drawing).
 - (k) Libelants' Exh. "B" (Miller Salvage Co. drawing).
 - (l) Libelants' Exh. "C" (Inter-Island and Matson drawing).

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- (m) Libelants' Exh. "D" (Miller Salvage Co. time-book).
- (n) Libelants' Exh. "F" (Inter-Island Co. drawing referred to in Capt. Macauley's testimony).
- (o) Libelants' Exh. "G" (Drawing referred to in Capt. Macauley's testimony).
- (p) Libelants' Exh. "H" (Drawing referred to in Capt. Tullet's testimony).
- (q) Libelants' Exh. "I" (Photograph of "Celtic Chief" referred to in Capt. Tullet's testimony).
- (r) Libelants' Exh. "J" (Photograph of "Intrepid" and "Mauna Kea" referred to in Capt. Tullet's testimony).
- (s) Libelants' Exh. "K" (Photographs of "Celtic Chief" referred to in Capt. Tullet's testimony).
- (t) Libelants' Exh. "L" (Photographs of "Celtic Chief" referred to in Capt. Tullet's testimony).
- (u) Libelants' Exh. "M" (Report of Engineer Faneuf).
- (v) Libelants' Exh. "N" (Light signals referred to in evidence of Capt. Haglund).
- (w) Libelants' Exh. "Q" (Drawing in deposition of Capt. Henry).
- (x) Libelants' Exh. "R" (Mail contract of Inter-Island Co.).
- (y) Libellees' Exh. "B" and Libelants'

Exh. "O" and "P," being various
hemp and steel hawsers.

Said exhibits are designated out of the printed record for the reason that in accordance with Rule 14, Subdivision 4, of the Circuit Court of Appeals said exhibits are not required to be printed, and appellants give notice that if any of said exhibits are printed by appellees, said appellees will themselves pay for such printing.

105. Omit the extended title of court and cause in all cases except on the first page and in the three libels, and insert in place thereof the words "Title of Court and Cause," together with the number of the case or cases referred to in such captions.
106. Omit all endorsements on the various pleadings and exhibits except the words "Filed" and the date of filing and the number of the case and the number of the exhibit and whose exhibit it is.
107. Omit stipulations filed in the Circuit Court of Appeals for hearing cases upon one consolidated record in that the court minute order on said stipulations will sufficiently show such consolidation.

Dated: May 29, 1914.

E. B. McCLANAHAN,
S. H. DERBY,
Proctors for Appellants.

I hereby certify that a duplicate of the above notice and designation was mailed to local counsel for appellants on the 29th day of May, 1914, for the purpose

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of serving the same upon the proctors for the appellees.

Dated: May 29th, 1914.

S. H. DERBY,
Of Counsel for Appellants.

[Endorsed]: Notice of Filing Apostles on Appeal and Appellants' Designation of Parts of Record to be Printed. Filed Jun. 2, 1914.

[Receipt for Copy of Notice of Filing of Apostles on Appeal and Appellants' Designation Under Rule 23.]

[Title of Appellate Court and Cause.]

Receipt of a copy of Appellants' Notice of Filing of Apostles on Appeal and Appellants' Designation of Parts of Record to be Printed is hereby admitted this 4th day of June, 1914.

CHARLES P. EELLS,
W. H. ORRICK,

Proctors for Appellees Inter-Island and Matson Companies.

[Endorsed]: Receipt for Copy of Appellants' Notice of Filing of Apostles on Appeal and Designation of Parts of Record to be Printed. Filed Jun. 12, 1914.

[Title of Appellate Court and Cause.]

Receipt for Copy of Notice of Filing of Apostles on Appeal and Appellants' Designation Under Rule 23.

Received a copy of the within Notice of Filing Apostles on Appeal and Appellants' Designation of

Parts of Record to be Printed this 6th day of June, 1914, at Honolulu, Territory of Hawaii.

W. O. SMITH,

L. J. WARREN,

C. R. HEMENWAY,

Proctors for Inter-Island Steam Navigation Co. and
Matson Navigation Co.

PHILIP L. WEAVER,

J. ALFRED MAGOON,

By P. L. WEAVER,

Proctors for Miller Salvage Co., Ltd.

[Endorsed]: Served Copy of Notice of Filing Apostles on Appeal and Appellants' Designation of Parts of Record to be Printed. Filed Jun. 15, 1914.

[Title of Appellate Court and Cause.]

Order Entered May 28, 1914, That Appeals may be Heard on One Consolidated Printed Record, etc.

On motion of Mr. S. H. Derby, counsel for the appellants, and pursuant to the three stipulations of counsel concerning the record on appeal in the above-entitled cause, which said stipulations were filed herein on the 27th day of May, A. D. 1914:

It is ORDERED that the appeals in the above-entitled cause may be heard upon one consolidated printed record, and that the appellant may file one brief covering the three appeals, reserving, however, to the appellees the right to file a separate brief on each appeal, if they so elect.

[Title of Appellate Court and Cause.]

**Stipulation and Order for Consideration of Exhibits
on Appeal.**

WHEREAS in the above-entitled causes consolidated on appeal the appellants have filed herein a notice of the filing of the Apostles on Appeal and designation of parts of the record to be printed, and have therein designated the entire record as necessary for the consideration of their assignments of error, and to be printed under Section 7 of Rule 23 of this Court, with the exception of certain portions of said record particularly specified, and except certain exhibits specified by appellants as unnecessary to be printed in said record, but with the expectation on the part of said appellants that said exhibits would nevertheless be considered on said appeals under Section 4 of Rule 14 of this Court; and

WHEREAS all of the exhibits in said causes have been withdrawn from the files of the Clerk of the United States District Court for the District of Hawaii, by order of the presiding Judge of said United States District Court, and forwarded to the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit together with the record on said appeals, but said exhibits were not by said order of withdrawal expressly specified by said United States District Judge (under Section 4 of Rule 14 of this Court) as necessary to be inspected by the Circuit Court of Appeals upon said consolidated appeals, and to be considered by said Appellate Court in connection with the transcript of the proceedings;

THEREFORE, it is hereby stipulated and agreed between said appellants and the appellees, the Inter-Island Steam Navigation Company, Limited, and Matson Navigation Company, that the several exhibits designated as “(a)” to “(y),” both inclusive, under specification number 104, in the appellants’ designation of parts of the record as not necessary to be printed, shall nevertheless be deemed part of the record on said appeals herein in like manner as though printed or as though formally designated by the presiding Judge of said District Court, under Section 4 of Rule 14 of this Court, as necessary to be inspected by this Court upon said appeals, and to be received and considered by this Court as original papers in connection with the transcript of the proceedings, as though under said Rule 14 without necessity of being printed.

Dated Honolulu, T. H., June 9th, 1914.

E. B. McCLANAHAN,

S. H. DERBY,

Proctors for Appellants.

CHARLES D. EELLS,

WILLIAM H. ORRICK,

L. J. WARREN,

Proctors for Appellees Inter-Island Steam Navigation Company, Limited, and Matson Navigation Company.

Approved:

WM. W. MORROW,

Judge of the United States Circuit Court of Appeals,
Ninth Circuit.

[Endorsed]: Stipulation and Order for Consideration of Exhibits on Appeal. Filed Jun. 18, 1914.

[**Apostles on Appeal.]**

Names and Addresses of Attorneys.

For Libellants Inter-Island Steam Navigation Company, Limited, and Matson Navigation Company:

SMITH, WARREN & HEMENWAY,
Rooms 206-210 Bank of Hawaii Building,
Honolulu, Hawaii.

For Libellant Miller Salvage Company, Limited:

J. A. MAGOON, Magoon Building, Honolulu, Hawaii, and

P. L. WEAVER, Room 505 Stangenwald Building, Honolulu, Hawaii.

For Libellee The British Ship "Celtic Chief" and John Henry, Master and Claimant:

HOLMES, STANLEY & OLSON, #863
Kaahumanu Street, Honolulu, Hawaii.
[1*]

[**Orders Extending Time to File Apostles on Appeal
(Memorandum Regarding).]**

[By various orders the time of appellants to file the apostles on appeal was extended to May 31st, 1914, in all of the three cases involved, namely: Cases #115, #116, and #117.]

*Page-number appearing at foot of page of original certified Record.

*In the United States District Court in and for the
District and Territory of Hawaii.*

No. 115.

INTER-ISLAND STEAM NAVIGATION COMPANY, LIMITED,

Libellant,

vs.

The British Ship "CELTIC CHIEF," Her Tackle,
etc.,

Libellee.

JOHN HENRY, Master and Claimant.

No. 116.

MILLER SALVAGE COMPANY, LIMITED,

Libellant,

vs.

The British Ship "CELTIC CHIEF," Her Tackle,
etc.,

Libellee.

JOHN HENRY, Master and Claimant.

No. 117.

MATSON NAVIGATION COMPANY, a Corpora-
tion,

Libellant,

vs.

The British Ship "CELTIC CHIEF," Her Tackle,
etc.,

Libellee.

JOHN HENRY, Master and Claimant.

Statement Under Admiralty Rule 4. [30]

TIME OF COMMENCING SUIT.

December 13, 1909. Verified Libel was filed and motion was issued to the United States Marshal for the District of Hawaii. (In cause No. 115.)

December 15, 1909. Verified Libel was filed and motion was issued to the United States Marshal for the District of Hawaii. (In cause No. 116.)

December 30, 1909. Verified Libel was filed and motion was issued to the United States Marshal for the District of Hawaii. (In cause No. 117.)

NAMES OF ORIGINAL PARTIES.

LIBELLANT: Inter-Island Steam Navigation Company, Limited, an Hawaiian corporation, owner of the steamers "Helene," "Mikahala," "Like-like" and "Mauna Kea," for itself, the officers and crews of said steamers, and other servants of said Owners. (In cause No. 115.)

LIBELLEE: The British ship "Celtic Chief," her tackle, apparel, machinery, boats, furniture, appurtenances, cargo and freight money. (In cause No. 115.)

CLAIMANT: John Henry, Master. (In cause No. 115.)

LIBELLANT: Miller Salvage Company, Limited, a corporation. (In cause No. 116.)

LIBELLEE: British ship "Celtic Chief," her tackle, apparel, furniture, machinery, boats, appurtenances, cargo and freight money. (In cause No. 116.)

CLAIMANT: John Henry, Master. (In cause No. 116.) [31]

LIBELLANT: Matson Navigation Company, a California corporation, owner of the Tug "Intrepid," for itself, and the officers and crew of said Tug. (In cause No. 117.)

LIBELLEE: The British ship "Celtic Chief," her tackle, apparel, machinery, boats, furniture, appurtenances, cargo and freight money. (In cause No. 117.)

CLAIMANT: John Henry, Master. (In cause No. 117.)

DATES OF FILING OF PLEADINGS.

December 13, 1909. Libel. (In cause No. 115.)

December 15, 1909. Libel. (In cause No. 116.)

December 30, 1909. Libel. (In cause No. 117.)

December 17, 1909. Claim of John Henry, Master of the British ship "Celtic Chief" and the lawful bailee thereof, her tackle, apparel, machinery, boats, furniture, appurtenances, cargo and freight money. (In cause No. 115.)

December 24, 1909. Claim of John Henry, Master of the British ship "Celtic Chief" and the lawful bailee thereof, her tackle, apparel, machinery, boats, furniture, appurtenances, cargo and freight money. (In cause No. 116.)

December 30, 1909. Claim of John Henry, Master of the British ship "Celtic Chief" and the lawful bailee thereof, her tackle, apparel, machinery, boats, furniture, appurtenances, cargo and freight money. (In cause No. 117.)

January 11, 1910. Answer of Claimant, John Henry. (In causes Nos. 115, 116 and 117.)

January 14, 1910. Motion to Consolidate. (In causes Nos. 115, 116 and 117.)

January 24, 1910. Order of Consolidation. (In causes Nos. 115, 116 and 117.) [32]

ATTACHMENT OF PROPERTY AND PROCEEDINGS THEREUNDER.

December 13, 1909. Monition was issued and delivered to the United States Marshal for the District of Hawaii. Said monition thereafter was returned into court with the following return by the said Marshal:

"In obedience to the within Monition I attached the British ship 'Celtic Chief,' her tackle, etc., cargo now or lately laden on board said ship, including cargo stored on the Inter-Island Steam Navigation Co., Ltd., wharf, and cargo stored in Warehouse No. 9 of Hawaiian Fertilizer Company, Ltd., also freight money, on the 13th day of December, 1909, and have given due notice to all persons claiming the same that this Court will, on the 17th day of December, 1909 (if that day be a day of jurisdiction, if not, on the next day of jurisdiction thereafter), proceed to trial and condemnation thereof, should no claim be interposed for the same, by posting a notice of this Monition according to law, for the space of four days in a conspicuous place in the Judiciary Building in the City and County of Honolulu, Territory of Hawaii, and by causing the notice of seizure, information and arrest of the property and time of hearing to be published in the 'Pacific Commercial Advertiser' publications or issues of December 14 and 15, 1909 (a newspaper published in this district, and in which the said publication was made by order of

this Court), prior to the time and place fixed for the hearing.

E. R. HENDRY,

United States Marshal.

By (Sgd.) H. C. Bruns,

Chief Deputy Marshal.

Honolulu, December 17th, 1909." (In cause No. 115.) [33]

December 15, 1909. Monition was issued and delivered to the United States Marshal for the District of Hawaii. Said monition thereafter was returned into court with the following return by the said Marshal:

"In obedience to the within Monition I attached the British ship 'Celtic Chief,' her tackle, etc., cargo now or lately laden on board said ship, including cargo stored on the Inter-Island Steam Navigation Co., Ltd., wharf, and cargo stored in Warehouse No. 9 of Hawaiian Fertilizer Company, Ltd., also freight money, on the 15th day of December, 1909, and have given due notice to all persons claiming the same that this court will, on the 24th day of December, 1909 (if that day be a day of jurisdiction, if not, on the next day of jurisdiction thereafter), proceed to trial and condemnation thereof, should no claim be interposed for the same, by posting a notice of this Monition according to law, for the space of four days in a conspicuous place in the Judiciary Building in the City and County of Honolulu, Territory of Hawaii, and by causing the notice of seizure, information and arrest of the property and time of hearing to be published in the Pacific Commercial Advertiser publications or issues of December 16 and 17, 1909 (a newspaper published in this district, and in which the

said publication was made by order of this Court), prior to the time and place fixed for the hearing.

E. R. HENDRY,
United States Marshal.
By (Sgd.) H. H. HOLT,
Deputy.

Honolulu, December 28th, 1909." (In cause No. 116.) [34]

December 30, 1909. Monition was issued and delivered to the United States Marshal for the District of Hawaii. Said monition thereafter was returned into court with the following return by the said Marshal:

"In obedience to the within Monition I attached the British ship 'Celtic Chief,' her tackle, etc., cargo now or lately laden on board said ship, including cargo stored on the Inter-Island Steam Navigation Co., Ltd., wharf, and cargo stored in Warehouse No. 9 of Hawaiian Fertilizer Company, Ltd., also freight money, on the 30th day of December, 1909, and have given due notice to all persons claiming the same that this court will, on the 7th day of January, 1910 (if that day be a day of jurisdiction, if not, on the next day of jurisdiction thereafter), proceed to trial and condemnation thereof, should no claim be interposed for the same, by posting a notice of this Monition according to law, for the space of four days in a conspicuous place in the Judiciary Building in the City and County of Honolulu, Territory of Hawaii.

E. R. HENDRY,
United States Marshal.
By (Sgd.) H. C. Bruns,
Deputy.

Honolulu, December 31, 1909." (In cause No. 117.)

December 17, 1909. Claim filed by John Henry, master of the British ship "Celtic Chief" and bailee of said ship, her cargo and freight money, together with an Admiralty Stipulation and a bond for the release of the said British ship "Celtic Chief," in the sum of Thirty-six Thousand Dollars (\$36,000.00), which amount was fixed by stipulation by the proctors for the said libellant, and notice of the said bonding was given to said Marshal by the clerk of said court. (In cause No. 115.) [35]

December 24, 1909. Claim filed by John Henry, master of the British ship "Celtic Chief" and bailee of said ship, her cargo and freight money, together with an Admiralty Stipulation and a bond for the release of the said British ship "Celtic Chief," in the sum of Twenty-one Thousand Dollars (\$21,000.00), which amount was fixed by stipulation by the proctors for the said libellant, and notice of the said bonding was given to said Marshal by the clerk of said court. (In cause No. 116.)

December 30, 1909. Claim filed by John Henry, master of the British ship "Celtic Chief" and bailee of said ship, her cargo and freight money, together with an Admiralty Stipulation and a bond for the release of the said British ship "Celtic Chief," in the sum of Sixteen Thousand Dollars (\$16,000.00), which amount was fixed by stipulation by the proctors for the said libellant, and notice of the said bonding was

given to said Marshal by the clerk of said court.
(In cause No. 117.)

TIME WHEN TRIAL WAS HAD.

The above-entitled causes came on regularly for trial in the United States District Court for the Territory of Hawaii, before the Honorable A. G. M. Robertson and the Honorable Charles F. Clemons, Judges of said Court, on the following days, to wit: June 8, 1910; May 20, 22 and 23, 1911; August 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 28, and 29, 1911; September 6, 7, 8, 11, 15, 18, 19, 20, 21, 22, 25, 26, 27 and 29, 1911; October 16, 17, 18, 20, 23, 27 and 30, 1911; November 1, 2, 3, 6, 7 and 8, 1911; December 18, 20, 21, 22, 28 and 29, 1911; January 4, 1912, and February 16, 1912. [36]

At the trial of said causes the following witnesses were examined *viva voce* and gave their evidence in open court before the said Judges of said court, to wit:

Witnesses called on behalf of Libellants: C. L. Wight, Frank J. Loncke, Wm. Weisbarth, Isaiah Bray, J. A. Kennedy, Tom Mason, Richard K. Clarke, Norman Watkins, Moses Kakai Ekau Makelen, J. Sato, Capt. F. C. Miller, J. W. Vanatta, George E. Piltz, Y. Oda, John Scott, J. M. Dowsett, J. R. Macaulay, Albert Tullett, Martin Christiansen, E. P. Faneuf, R. Nelson, C. H. Strohlin, W. B. Lycett, James Devlin, Frank C. Poor, C. J. Campbell, Norman E. Gedge, George J. Fern, Capt. J. F. Haglund, and A. Lewis, Jr.

Witnesses called on behalf of Libellee: Norman Watkins, John William Smithies, George W. R. King and A. W. Keech.

The following witnesses were not examined in open court, but their depositions were read before the Court:

Depositions of witnesses on behalf of libellant: M. Barrett and J. W. McAllister.

Depositions of witnesses on behalf of libellee: F. M. Connemann, H. Schroeder, John Hughes, W. M. Kellock, Capt. Henry, J. J. Lowry, J. L. Brisco, M. Sorensen, A. Gordon, A. F. Pillsbury, J. Metcalfe and J. C. Eschen.

June 17, 1913. Decision.

June 17, 1913. Decree. (In causes 115, 116 and 117.)

June 26, 1913. Notice of Appeal. (In causes 115, 116 and 117.)

July 14, 1913. Bond on Appeal. (In causes No. 115, 116 and 117.)

October 20, 1913. Amendment to Decree. (In cause No. 117.)

January 8, 1914. Stipulation reducing penalty bond for release of vessel. (In causes No. 115, 116 and 117.)

April 25, 1914. Assignment of Errors. (In causes Nos. 115, 116 and 117.) [37]

Clerk's Certificate to Statement Under Admiralty Rule 4.

United States of America,
District of Hawaii,—ss.

I, A. E. Murphy, Clerk of the United States District Court for the Territory of Hawaii, do hereby certify the foregoing to be a full, true and correct

statement showing the time of commencement of the above-entitled suits; the names of the original parties thereto and those who have become parties, before the appeal; the several dates when the respective pleadings were filed; an account of the proceedings showing attachment of the said vessel and her release under bonds; the time when the trial was had and the name of the Judges hearing the same; the date of entry of the final decrees and the date when the notices of appeal were filed, in the cases of Inter-Island Steam Navigation Company, Limited, an Hawaiian Corporation, Owner of the Steamers "Helene," "Mikahala," "Likelihi" and "Mauna Kea," for Itself, the Officers and Crews of said Steamers and Other Servants of said Owners, vs. The British Ship "Celtic Chief," Her Tackle, Apparel, Machinery, Boats, Furniture, Appurtenances, Cargo and Freight Money, Libellee, and John Henry, Master, Claimant, Number 115, and Miller Salvage Company, Limited, a Corporation, vs. British Ship "Celtic Chief," Her Tackle, Apparel, Furniture, Machinery, Boats, Appurtenances, Cargo and Freight Money, Libellee and John Henry, Master, Claimant, Number 116, and Matson Navigation Company, a California Corporation, Owner of the Tug "Intrepid," for Itself, and the Officers and Crew of said Tug, vs. The British Ship "Celtic Chief," Her Tackle, Apparel, Machinery, Boats, Furniture, Appurtenances, Cargo and Freight Money, Libellee, and John Henry, Master, Claimant, Number 117, in the United States District Court for the Territory of Hawaii. [38]

In WITNESS WHEREOF, I have hereunto set

my hand and affixed the seal of said District Court this 18th day of May, A. D. 1914.

[Seal]

A. E. MURPHY,

Clerk, United States District Court, Territory of Hawaii. [39]

*In the United States District Court for the Territory
of Hawaii.*

IN ADMIRALTY.

INTER-ISLAND STEAM NAVIGATION COMPANY, LIMITED, an Hawaiian Corporation, Owner of the Steamers "HELENE," "MIKAHALA," "LIKELIKE" and "MAUNA KEA," for Itself, the Officers and Crews of Said Steamers, and Other Servants of Said Owners,

Libelant,

vs.

The British Ship "CELTIC CHIEF," Her Tackle, Apparel, Machinery, Boats, Furniture, Appurtenances, Cargo and Freight Money,
Respondent.

Libel [in Cause No. 115].

To the Honorable SANFORD B. DOLE, Judge of the United States District Court for the Territory of Hawaii:

The libel of Inter-Island Steam Navigation Company, Limited, a corporation duly organized and existing under and by virtue of the laws of the Territory of Hawaii, owner of the steamer "Helene," whereof R. Nelson is master, the steamer "Mikahala," whereof A. Tullett is master, the steamer

"Likewise," whereof M. Naopala is master, and the steamer "Mauna Kea," whereof W. K. Freeman is master, against the British ship "Celtic Chief," whereof J. Henry is master, now lying at the port of Honolulu, Island of Oahu, Territory of Hawaii and within the admiralty jurisdiction of this court, her tackle, apparel, machinery, boats, furniture, appurtenances and cargo, now or lately laden on board said ship, and including that portion of said cargo of said ship which has been discharged and is now lying, being or stored on the Inter-Island Steam Navigation [40] Company's wharf in said harbor of Honolulu, and also against the freight money of said ship and against all persons lawfully intervening for their interest therein in a cause of salvage civil and maritime, alleges and propounds as follows:

I.

That the libelant Inter-Island Steam Navigation Company, Limited, now is and at all times herein-after mentioned was a corporation duly organized and existing under and by virtue of the laws of the Territory of Hawaii.

II.

That during all the times herein mentioned the said steamer "Helene" was and now is of the tonnage of 618 tons and had a crew of 31 men besides the master, and said steamer was then and now is staunch and strong, well-manned, tackled and appointed, and well equipped for salvage purposes and of the value of \$125,000.

That the said steamer "Makahala" during all the times herein mentioned was and now is of the tonnage of 444 tons and had a crew of 35 men besides

the master, and said steamer "Mikahala" was then and now is staunch and strong, well-manned, tackled and appointed, and well equipped for salvage purposes and of the value of \$50,000.

That the said steamer "Likelike" was during all the times herein mentioned and now is of the tonnage of 374 tons and had a crew of 28 men besides the master, and said steamer "Likelike" was then and now is staunch and strong, well-manned, tackled and appointed, and well equipped for salvage purposes and of the value of \$100,000.

That the said steamer "Mauna Kea" was during all the times herein mentioned and now is of the tonnage of 1566 tons and had a crew of 60 men besides the master, and said steamer [41] "Mauna Kea" was then and now is staunch and strong, well-manned, tackled and appointed, and well equipped for salvage purposes and of the value of \$350,000.

III.

That during all the times in this libel mentioned the said British ship "Celtic Chief" was and now is a vessel of the tonnage of 1789 tons and was and now is of the value of \$50,000; and that said ship "Celtic Chief" was laden with a valuable cargo of fertilizer, nitrates and general merchandise destined for the Port of Honolulu, the value of which, together with her freight money is upwards of the sum of \$135,000.

IV.

That during the evening of Sunday, December 5, 1909, while proceeding on a voyage from Hamburg, Germany, to the said Honolulu said ship "Celtic Chief," ran ashore and stranded on a coral reef on the

southern coast of the Island of Oahu, about $\frac{3}{4}$ of a mile westward of the channel entrance to the said Harbor of Honolulu, Island of Oahu.

V.

That hearing of said disaster on Monday, December 6th and at the request of the master of said ship, the libelant promptly proceeded with all dispatch to render assistance to said ship by the aid of its several steamers with their numerous respective crews, her servants skilled in salvage matters, a large gang of stevedores and a donkey-hoist and barge, all as hereinafter set forth and as the occasion from time to time required. That the steamer "Mauna Kea" was sent immediately to the relief of said ship, and on her arrival at the locality of the disaster about 10 A. M. on said December 6th, the said ship "Celtic Chief" was found hard aground on said coral reef as hereinbefore stated in a position of great peril, exposed to the action of the open sea, being wholly unable to extricate herself [42] and in danger of destruction by reason of her position upon the said coral reef. That the said steamer "Mauna Kea" immediately made fast her hawser to said ship "Celtic Chief," and from about said hour of 10 A. M. on December 6th until about the hour of 8 o'clock A. M. on December 7th strained continuously on her said hawser and at all times exerted the power of her engines excepting a short interval after the breaking of her hawser and before the same was again made fast to said ship "Celtic Chief," all at some peril to said steamer "Mauna Kea"; that at about said hour of 8 A. M. on said December 7th the said steamer "Mikahala" being and remaining at that time made

fast by her own hawsers to said ship "Celtic Chief," and the said steamer "Helene" coming out to the scene of the disaster to relieve the said steamer "Mauna Kea," all said steamers being the property of the libelant, the said steamship "Mauna Kea" returned to the Harbor of Honolulu to depart on her delayed scheduled run to various island ports with mail and passengers.

VI.

That the said steamer "Mikahala" left said harbor at 10:40 A. M. on December 6th and arrived at the scene of the disaster at the hour of 10:55 A. M. and made her two hawsers fast to said ship "Celtic Chief" at 11:05 A. M. of said December 6th; that from the said hour of 10:55 A. M. on December 6th until the hour of 12:20 A. M. or thereabouts on December 9th the said steamer "Mikahala" strained continuously on her said hawsers and exerted the power of her engines, and that at the said hour of 12:20 A. M. or thereabouts, the said ship "Celtic Chief" was pulled off said reef and floated into deep water.

VII.

That the said steamer "Helene," having lately arrived at said port of Honolulu, proceeded from said harbor at 6:30 A. M. on December 7th and arrived at the scene of the said disaster [43] at 6:45 A. M.; that said steamer "Helene" made fast to said ship "Celtic Chief" at about 8 A. M. by means of hawsers, transferred to said steamer "Helene" from the said steamer "Mauna Kea," and that from the hours of 8 A. M. on said December 7th and until the hour of 12:20 A. M. or thereabouts on December

9th, excepting two short intervals in order to permit of her hawsers being adjusted, the said steamer "Helene" strained continuously on her said hawsers and exerted the power of her engines, at which time last mentioned the said ship "Celtic Chief" was pulled off said reef. That after said ship was pulled off said reef and floated into deep water the said steamer "Helene" stood by during the remainder of the night and finally returned to the Harbor of Honolulu, arriving at her dock at 7 o'clock A. M. on December 9th.

VIII.

That the said steamer "Likelike" having lately arrived at said port of Honolulu proceeded from said harbor at 11:24 A. M. on December 8th, arrived at the scene of said disaster at 11:36 A. M., and that said steamer "Likelike" made fast to said ship "Celtic Chief" by means of her hawser at about 12 M. and that from about the hour of 12 M. to about the hour of 12:20 A. M. December 9th, at which time said ship "Celtic Chief" was pulled off, said steamer "Likelike" strained continuously on her said hawser and exerted the power of her engines excepting during a short interval consumed in shifting her position; that at the said time said "Celtic Chief" was pulled off said reef the only vessels pulling and straining on their hawsers attached to said ship "Celtic Chief" were the said steamers "Helene," "Mikahala" and "Likelike," and that said steamers "Helene," "Mikahala" and "Likelike" did pull said ship "Celtic Chief" off said reef and did cause her to be floated into deep water; that after said ship "Celtic Chief" was so pulled off said reef and [44]

floated into deep water, the German cruiser "Arcona" towed her out to sea and away from said dangerous shore in a position of safety, and left her. That thereupon the said steamship "Likelike" towed said ship "Celtic Chief" to a safe anchorage off the channel entrance to the Harbor of Honolulu, and stood by the remainder of the night and until 9:30 A. M. on December 9th, when said "Likelike" transferred her hawser to the steamer "Maui," one of the steamers of libelant; that the latter steamer afterwards towed said ship "Celtic Chief" into the said harbor of Honolulu about 11:20 A. M. on said December 9th, where she now lies within the admiralty jurisdiction of this court.

IX.

That all of said steamers and their shore boats, masters and crews, were exposed to some risk and peril during the salvage operations owing to the character of and the close proximity to the said reef, the southerly wind blowing a portion of the time, and the swell which was running during most of the time and the operations of many steamers and lines about said wreck during the day and night.

X.

That beginning with Tuesday the 7th day of December, 1909, and up to the time said ship "Celtic Chief" was pulled off said reef, the said libelant, at the request of the master of said ship and under the supervision of the libelant, discharged a portion of the cargo, to wit, upwards of 400 tons, of the said ship "Celtic Chief," and transferred the same into the said steamers "Mikahala" and "Helene" by means of the shore boats of said steamers; that to

carry on the discharge and transfer of the cargo a large gang of stevedores were employed by the libellant; that in the carrying on of the said discharge and transfer the said stevedores together with the crews of the [45] libelant's steamers worked both night and day; that said work was attended with great difficulty owing to the swell which prevailed during most of the time that these operations were carried on; that said libelant on the 8th day of December procured a barge equipped with a donkey-hoist and anchored the same at the side of said ship "Celtic Chief" in a position of great peril and exposed to great danger of loss, damage or destruction in order to facilitate the work of discharging said cargo and that said barge and hoist together with the necessary men to operate the same were actually utilized in the said work of discharging said cargo until the time that said ship "Celtic Chief" was pulled off said reef.

XI.

That during all the time that said ship "Celtic Chief" was stranded on said reef and until she was finally pulled off said reef as herein set forth, said ship "Celtic Chief" was in a position of imminent peril and was in great danger of having her hull stove in and her perishable cargo of fertilizer, nitrates and general merchandise greatly damaged and destroyed, and was in great danger of being driven further up on said reef and becoming a total wreck and loss; that said ship "Celtic Chief" was exposed to the action of the open sea on the southern coast of the Island of Oahu at the time of the year when destructive southerly weather is prevailing, and had it not been for the efforts of said steamers

“Helene,” “Mikahala,” “Likewise” and “Mauna Kea” in pulling continuously upon said ship “Celtic Chief” with the exercise of the skill and care on the part of the masters and crews of said steamers “Helene,” “Mikahala,” “Likewise” and “Mauna Kea” and Captain Haglund and Captain Clark and the services of the other servants of said libelant Inter-Island Steam Navigation Company, Limited, the said ship “Celtic Chief” would have become a total loss. [46]

XII.

That said ship “Celtic Chief” was pulled off said reef and floated into deep water to a place of safety together with her cargo and saved from total loss solely by and through the efforts of said steamers “Helene,” “Mikahala,” “Likewise” and “Mauna Kea,” their respective masters and crews and the other servants of said Inter-Island Steam Navigation Company, Ltd., save and except the assistance rendered by the tug “Intrepid,” and also some assistance rendered by the Miller Salvage Company, Limited, and some very slight assistance rendered by the German Cruiser “Arcona.”

XIII.

That said services performed by libelant as aforesaid were of a salvage nature and of great value to said ship “Celtic Chief,” which, without the aid thereof, would otherwise have become a total loss; that said libelant by reason of said services rendered as aforesaid deserves and is justly entitled to meet and competent salvage as a reward which is usually granted by a court of admiralty in such cases, and that the value of said services is the sum of Thirty-

five Thousand Dollars (\$35,000).

XIV.

That all and singular the premises are true and within the admiralty jurisdiction of this court.

WHEREFORE, libelant prays that process in due form of law according to the course and practice of courts of admiralty and this Honorable Court in cases of admiralty and maritime jurisdiction may issue against the said British ship "Celtic Chief," her tackle, apparel, machinery, furniture, boats, appurtenances, cargo and freight money aforesaid, and that all persons having or pretending to have any right, title, claim [47] or interest in said British ship "Celtic Chief," her tackle, apparel, furniture, machinery, boats, appurtenances, cargo and freight money aforesaid, be cited to appear and answer upon oath all and singular the matters aforesaid, and that this Honorable Court may be pleased to decree a reasonable and proper salvage in proportion to the value of said British ship "Celtic Chief" and her tackle, apparel, furniture, machinery, boats, appurtenances, cargo and freight money aforesaid, to be due the said libelant as compensation for its salvage services as shall seem to this Honorable Court meet and reasonable, together with its costs and expenses in this behalf; and that said British ship "Celtic Chief," her tackle, apparel, furniture, machinery, boats, appurtenances, cargo and freight money aforesaid may be condemned and sold to pay said salvage with costs, charges and expenses, and that said libelant may have such further and other relief in the premises as in law and justice it may be entitled to receive.

Dated Honolulu, T. H., December 11th, 1909.

[Corporate Seal]

INTER-ISLAND STEAM NAVIGATION
COMPANY, LIMITED,
By (Sgd.) JAMES A. KENNEDY,
Its President.

United States of America,
Territory of Hawaii,
County of Oahu,—ss.

Now comes James A. Kennedy, and being first duly sworn, upon oath deposes and says:

That he is the President of the Inter-Island Steam Navigation Company, Limited, a corporation, libellant in the within Libel, and is authorized to make this oath and prosecute this suit on behalf of said libellant; that he has acquired a knowledge of the matters and things set forth in said Libel partly from his own observations and partly from Captain J. F. Haglund and from some of the masters of the Inter-Island Steam Navigation Company's steamers named in the within Libel; and that the matters and things therein set forth are true to the best of deponent's knowledge and belief.

(Sgd.) JAMES A. KENNEDY.

Subscribed and sworn to before me this 13th day of December, 1909.

[Seal] (Sgd.) WM. J. FORBES,
Notary Public, First Judicial Circuit, Territory of
Hawaii. [48]

In the United States District Court, for the Territory of Hawaii.

IN ADMIRALTY.

MILLER SALVAGE CO., LTD., a Corporation,
Libelant,

vs.

British Ship "CELTIC CHIEF," Her Tackle, Apparel, Furniture, Machinery, Boats, Appurtenances, Cargo, and Freight Money,
Lipelee.

Libel [in Cause No. 116].

To the Honorable S. B. DOLE, Judge of the United States District Court, in and for the District of Hawaii:

The Libel and Complaint of Miller Salvage Company, Limited, a corporation, against the British ship "Celtic Chief," whereof J. Henry is Master, her tackle, apparel, furniture, machinery, boats, and appurtenances, and against her cargo of fertilizer, nitrates, and general merchandise, now and lately laden upon her and including that portion of said cargo of said ship which is now discharged and now lying, being, and stored on the Inter-Island Steam Navigation Company's wharf in said Harbor of Honolulu, and also against her freight money and against all persons lawfully intervening for their interest therein, in a cause of salvage, civil and maritime, alleges as follows:

First: That libelant is and was at all times herein mentioned, a corporation duly organized under the

laws of the Territory of Hawaii for the purpose of salving vessels, among other purposes, and is, and was at all times herein mentioned, the owner of the schooner "Concord," the steamship "James Makee," the launch "Elizabeth," and the motor boat "Mokolii," the lighter "Kaimiloa," which later was had under charter, and also the owner of anchors, cables, ropes, tackle, and other appliances for salvage of vessels and cargo worth upwards of \$50,000, especially fitted and adapted for the purpose of salvage of vessels; that Frederick C. Miller [50] is the manager of said corporation and in charge of the work of salving vessels.

Second: That at all times mentioned in this Libel, said British ship "Celtic Chief" was, and now is, a vessel of 1789 tons and was, and now is, of the value of \$40,000.00, and that said "Celtic Chief" was laden with a valuable cargo of fertilizer, nitrates, and general merchandise, destined for the Port of Honolulu, the value of which, together with her freight money is upwards of \$130,000.00.

Third: That after dark on Sunday, December 5, 1909, and while proceeding to enter the Harbor of Honolulu on her voyage from the Port of Hamburg, Germany, the said ship "Celtic Chief" ran ashore and stranded on the coral reef of the southwest coast of the Island of Oahu, Territory of Hawaii, about one-half mile westward of the channel entrance to the said Port of Honolulu.

Fourth: That on the morning of December 6, 1909, the ship "Celtic Chief" was aground on the coral reef about a half mile to westward of the en-

trance to Honolulu Harbor on the Island of Oahu, in the Territory of Hawaii.

That said Miller went aboard the said ship "Celtic Chief" about eight A. M. of said December 6, 1909, and at the request of the captain of said vessel took steps to send out vessels to take out the cargo.

Fifth: That in order to accomplish such purpose, said Miller sent out the steamship "James Makee," the schooner "Concord," the lighter "Kaimiloa," the motor launch "Elizabeth," and about eighty-six men.

Sixth: That thereafter, during that day and the following night, libelant, by means of said vessels, tackle, and men, unloaded and took ashore about two hundred and thirty-nine tons of the cargo of said vessel of the value of about \$11,000.00. [51]

Seventh: That said cargo was worked with great difficulty for the reason that a heavy swell was running from the southward toward the shore rendering it difficult to keep the salving vessels alongside the "Celtic Chief," and causing great damage to the schooner "Concord," to wit: breaking her windlass and rails; also to the "James Makee" tearing out her bitts and greatly bruising her sides, destroying, using up her tackle, to the damage of libelant of about \$1400.00.

Eighth: That during the 6th day of December, 1909, the "Intrepid," a towboat, had been fast to the said ship part of the time and also the "Mauna Kea" and "Mikahala," and that said vessels were pulling to tow the "Celtic Chief" off the reef, but that the "Celtic Chief" was set further inshore notwithstanding the efforts to pull her off;

That on December 7, said Salvage Company unloaded the S. S. "James Makee" and prepared a large anchor and proper purchase tackle and shipped the same on board the S. S. "James Makee," and stood by the "Celtic Chief" that evening.

Ninth: That on the morning of December 8, 1909, the said Salvage Company placed a large anchor about one thousand feet dead astern of the "Celtic Chief" and thereafter a new three and one-half inch steel hawser was taken therefrom to the "Celtic Chief" and connected to a purchase tackle on the decks in such a manner that the capstan and steam winch could be and were used to haul taut the said cable to the anchor; all arrangements were completed to make a hard pull that day; from about three P. M. to about ten P. M. libelant was hauling taut the anchor tackle; about ten P. M. libelant, by Captain F. C. Miller, began making a hard pull on the anchor tackle.

Tenth: That during said day, December 8, 1909, high water was about one P. M. and four steam vessels were pulling on the said "Celtic Chief" without moving her.

That until the stern hawser was made taut by libelant, the swell was moving the "Celtic Chief" further inshore. [52]

Eleventh: That about ten P. M. and while four steam vessels were fast to the "Celtic Chief" and while the said lines were slack and the said vessel had not been moved by them or any of them from her position, libelant caused the line to the said anchor to be hauled taut by the purchase tackles and

the said vessel began moving toward the mooring, seaward.

That after the "Celtic Chief" had moved seaward about seventy-five feet as a result of libelant's pulling, signals were set on the "Celtic Chief" for the vessels fast to her to begin pulling; that before the lines of the said salving vessels were made taut, through the efforts of the libelant hauling on the mooring line, the "Celtic Chief" was afloat and water-borne.

Twelfth: That then the salving vessels, with some assistance from the German cruiser "Arcona," pulled the "Celtic Chief" from her position of danger near the reef, to a place of safe anchorage.

Thirteenth: That all the said vessels of the libelant with their store, boats, masters, and crews, were exposed to risk and peril during the salvage operations because of the swell running from the sea toward the reef, because of the bumping of the vessels against the said "Celtic Chief," and because there was a southerly wind blowing part of the time, and because of the proximity of the reef and the operation of the said vessels during the night as well as the day.

Fourteenth: That during all the time that the said "Celtic Chief" was stranded on the reef as aforesaid until she was finally pulled off the said reef, as hereinbefore stated, said "Celtic Chief" was in a position of great danger and was in imminent peril of having her hull so injured as to cause her to leak beyond repair by reason of the bumping of her keel upon the coral reef, caused by the swell;

and said vessel was in imminent danger that her cargo of fertilizer, nitrates, and general merchandise be destroyed or damaged by water, and, further, she was in [53] great danger of being driven further upon the reef by the action of the sea upon the southwestern coast of the Island of Oahu at a season when dangerous southerly winds prevailed; and libellant says that because of the exercise of skill and care on the part of the said Frederick C. Miller, its manager, and the men under him, servants of libellant, the said vessel was prevented from going further upon the reef and becoming a total loss.

Fifteenth: That the "Celtic Chief" with the cargo remaining was pulled off the reef and floated in navigable water and saved from total loss solely by and through the efforts of the said Captain Frederick C. Miller, his men, and appliances, save and excepting some assistance rendered by the vessels of the Inter-Island Steam Navigation Company, Limited, and of the German cruiser "Arcona" which pulled the "Celtic Chief" into a place of safety after the libellant had hauled her into deep water; that libellant's tackle was so arranged that if not assisted as aforesaid, libellant would have pulled the "Celtic Chief" into safe water.

Sixteenth: That the services of libellant were of great value resulting in saving the ship from total destruction, and libellant is entitled to be paid a reasonable salvage compensation therefor as a reward which is usually granted by a Court of Admiralty in such cases, and that the value of such services is the sum of \$20,000.00.

Seventeenth: That all and singular, these premises herein are true.

WHEREFORE libelant prays that process in due form of law, according to the law and process of Courts of Admiralty and of this Honorable Court in cases of admiralty and maritime jurisdiction may issue to the said British ship "Celtic Chief," her tackle, apparel, machinery, furniture, boats, appurtenances, cargo, and freight money, aforesaid, and that all persons having or to have any right, title, claim or interest in the said British ship "Celtic Chief," her tackle, apparel, machinery, furniture, [54] boats, appurtenances, cargo, and freight money, aforesaid, be cited to appear and answer, upon oath, all and singular the matters aforesaid, and that this Honorable Court may be pleased to decree a reasonable and proper salvage in proportion to the value of the said British ship "Celtic Chief," her tackle, apparel, machinery, furniture, boats, appurtenances, cargo, and freight money, aforesaid, to be due the said libelant as compensation for its salvage services, as shall seem to this Honorable Court meet and reasonable, together with its costs and expenses in this behalf, and that said British ship "Celtic Chief," her tackle, apparel, machinery, furniture, boats, appurtenances, cargo, and freight money aforesaid, may be condemned and sold to pay said salvage and costs and charges, and expenses, and that the said libelant may have such further and other relief in the premises as in law and justice it may be entitled to receive.

Dated, Honolulu, T. H., December 14th, 1909.

MILLER SALVAGE COMPANY, LIMITED.

By (Sgd.) FREDC. C. MILLER,
Its Manager.

United States of America,
Territory of Hawaii,
City and County of Honolulu,—ss.

Now comes Frederick C. Miller and being first duly sworn, upon oath deposes and says: That he is the manager of the Miller Salvage Company, Limited, a corporation, libelant in the Libel above set forth, and is authorized to make oath and prosecute this suit on behalf of the said libelant; that he has acquired a knowledge of the matters and things set forth in the said Libel by his own observations, and that the matters and things therein set forth are true to the best of deponent's knowledge and belief.

(Sgd.) FREDC. C. MILLER.

Subscribed and sworn to before me this 14th day of December, 1909.

[Seal] (Sgd.) S. DE FREEST,
Notary Public, First Judicial Circuit, Territory of
Hawaii. [55]

*In the United States District Court for the Territory
of Hawaii.*

IN ADMIRALTY.

MATSON NAVIGATION COMPANY, a California Corporation, Owner of the Tug "INTREPID," for Itself, and the Officers and Crew of Said Tug,

Libelant,

vs.

The British Ship "CELTIC CHIEF," Her Tackle, Apparel, Machinery, Boats, Furniture, Appurtenances, Cargo and Freight Money,
Respondent.

Libel [in Cause No. 117].

To the Honorable SANFORD B. DOLE, Judge of the United States District Court for the Territory of Hawaii:

The libel of Matson Navigation Company, a California corporation duly organized and existing under and by virtue of the laws of the State of California, owner of the tug "Intrepid," whereof John W. McAllister is master, against the British ship "Celtic Chief," whereof J. Henry is master, now lying at the port of Honolulu, Island of Oahu, Territory of Hawaii, and within the admiralty jurisdiction of this Court, her tackle, apparel, machinery, boats, furniture, appurtenances, and cargo, now or lately laden on board said ship, and including that portion of said cargo of said ship which has been discharged and is now lying, being or stored on the Inter-Island Steam Navigation Company's wharf in said harbor of

Honolulu, and also in Hawaiian Fertilizer Company, Limited's Warehouse No. 9 at Iwilei, Honolulu, and also against the freight money of said ship and against all persons lawfully intervening for their interest therein in a cause of salvage civil and maritime, alleges and propounds as follows: [81]

I.

That Matson Navigation Company now is and at all the times hereinafter mentioned was a corporation duly organized and existing under and by virtue of the laws of the State of California and authorized to carry on business under the laws of the Territory of Hawaii.

II.

That during all the times herein mentioned said tug "Intrepid" was and now is of the tonnage of 123 tons and had a crew of 8 men besides the master, and said tug was then and now is staunch and strong, well manned, tackled and appointed, and well equipped for salvage purposes, and of the value of \$35,000, and during said times was and now is maintained in the harbor of said Honolulu; that one of the principal purposes of said maintenance of said tug in said harbor is that of rendering assistance to and salving vessels in distress in and about the waters of and immediately surrounding the Territory of Hawaii.

III.

That during all the times in this libel mentioned the said British ship "Celtic Chief" was and now is a vessel of the tonnage of 1789 tons and was and now is of the value of \$50,000; and that said ship "Celtic Chief" was laden with a valuable cargo of fertilizer,

nitrates and general merchandise destined for the port of Honolulu, the value of which, together with her freight money is upwards of the sum of \$135,000.

IV.

That during the evening of Sunday, December 5, 1909, while proceeding on a voyage from Hamburg, Germany, to the said Honolulu, said ship "Celtic Chief" ran ashore and stranded on a coral reef on the southern coast of the Island of Oahu, about $\frac{3}{4}$ of a mile westward of the channel entrance to the said harbor of Honolulu, Island of Oahu. [82]

V.

That said tug "Intrepid" on the morning of Monday, December 6th, between the hours of 6 and 7, while proceeding out of the harbor of Honolulu, found the said ship "Celtic Chief" hard aground as hereinbefore stated in a position of great peril, exposed to the action of the open sea, being wholly unable to extricate herself and in danger of destruction by reason of her position on said coral reef; that the said tug "Intrepid" with all dispatch, and at the request of the master of said ship "Celtic Chief," immediately made fast her hawser to said ship "Celtic Chief," and from about the hour of 7:15 A. M. of said December 6th until about the hour of 12:20 P. M. of December 8th strained continuously on her said hawser and at all times exerted the power of her engines; that at said hour of 12:20 P. M. of said December 8th, the hawser of the said tug "Intrepid" was cut on board said ship "Celtic Chief" and cast off said ship "Celtic Chief" by the master of said "Celtic Chief"; that the *mast* of the tug "Intrepid" departed immediately for the harbor of Honolulu,

obtained a part of a wire hawser and returned immediately to the scene of the disaster and again offered his hawser to the master of the said ship "Celtic Chief," but the same was refused by the master of the said ship "Celtic Chief"; that although said hawser was so refused by said master of said ship "Celtic Chief," the master of the tug "Intrepid" informed the master of the "Celtic Chief" that he, the said master of the tug "Intrepid" would remain within hailing distance of said ship "Celtic Chief" and stand by ready and willing to render and perform any service or assistance as occasion required, and that thereupon said tug "Intrepid," while not interfering in any manner with the salvage operations which were being carried on, did remain within hailing distance of said ship "Celtic Chief" and stood by ready, able and willing to render assistance until [83] 10 o'clock A. M., of December 9th, at which time the said ship "Celtic Chief" being at anchor afloat in deep water in the customary anchorage ground off the harbor of Honolulu, and being advised that no assistance would be required of the tug "Intrepid," departed for the harbor of Honolulu.

VI.

That the said tug "Intrepid" was the first salvor to render salvage services to said ship "Celtic Chief"; that at the time said hawser of said tug "Intrepid" was so cut and cast off said "Celtic Chief" by the master of said "Celtic Chief" as aforesaid, the said tug "Intrepid" was able, ready and willing to continue to render assistance to the said ship "Celtic Chief," and that there was fair prospect of a successful salving of said ship "Celtic

Chief" at the time said tug "Intrepid" was dismissed by said master of said "Celtic Chief," and that the said tug "Intrepid" could and would have performed greater and more efficient service than was afterwards performed by the German Cruiser "Arcona," which by the orders of the master of said ship "Celtic Chief" displaced the said tug "Intrepid" in the performance of her services upon the said ship "Celtic Chief."

VII.

That the said tug "Intrepid" and its equipment, master and crew, were exposed to some risk and peril during the salvage operations owing to the character of and the close proximity to the said reef, the southerly wind blowing a portion of the time, and the swell which was running during most of the time and the operations of many steamers and lines about said wreck during the day and night.

VIII.

That during all the time that said ship "Celtic Chief" was stranded on said reef and until she was finally pulled off said reef as herein set forth, said ship "Celtic Chief" was in a position of imminent peril and was in great danger of having her hull stove in and her perishable cargo of fertilizer, nitrates and [84] general merchandise greatly damaged and destroyed and was in great danger of being driven further up on said reef and becoming a total wreck and loss; that said ship "Celtic Chief" was exposed to the action of the open sea on the southern coast of the Island of Oahu at the time of the year when destructive southerly weather is prevailing, and had it not been for the efforts of the said tug

“Intrepid” together with the steamers “Helene,” “Mikahala,” “Likelike” and “Mauna Kea” in pulling continuously upon said ship “Celtic Chief” with the exercise of the skill and care on the part of the masters and crews of the tug “Intrepid” and the steamers of the Inter-Island Steam Navigation Company, Limited, and the services of the other servants of the Inter-Island Steam Navigation Company, Limited, the said ship “Celtic Chief” would have become a total loss.

IX.

That said ship “Celtic Chief” was pulled off said reef and floated into deep water to a place of safety together with her cargo, and saved from total loss solely by and through the efforts of the tug “Intrepid,” her master and crew, together with the assistance rendered by the steamers “Helene,” “Mikahala,” “Likelike” and “Mauna Kea,” their respective masters and crews and the other servants of said Inter-Island Steam Navigation Company, Limited, and also some assistance rendered by the Miller Salvage Company, Limited, and some very slight assistance rendered by the German Cruiser “Arcona.”

X.

That said services performed by libelant as aforesaid were of a salvage nature and of great value to said ship “Celtic Chief,” which, without the aid thereof, would otherwise have become a total loss; that said libelant by reason of said services rendered as aforesaid deserves and is justly entitled to meet any competent salvage as a reward which is usually granted by a court of admiralty in such cases, and that the value of said services is the sum of

XI.

That all and singular the premises are true and within the admiralty jurisdiction of this court.

WHEREFORE, libelant prays that process in due form of law according to the course and practice of courts of admiralty and this Honorable Court in cases of admiralty and maritime jurisdiction may issue against the said British ship "*Celtic Chief*," her tackle, apparel, machinery, furniture, boats, appurtenances, cargo and freight money aforesaid, and that all persons having or pretending to have any right title, claim, or interest in said British ship "*Celtic Chief*," her tackle, apparel, furniture, machinery, boats, appurtenances, cargo and freight money aforesaid be cited to appear and answer upon oath all and singular the matters aforesaid, and that this Honorable Court may be pleased to decree a reasonable and proper salvage in proportion to the value of said British ship "*Celtic Chief*," and her tackle, apparel, furniture, machinery, boats, appurtenances, cargo and freight money aforesaid, to be due the said libelant as compensation for its salvage services as shall seem to this Honorable Court meet and reasonable together with its costs and expenses in this behalf; and that said British ship "*Celtic Chief*," her tackle, apparel, furniture, machinery, boats, appurtenances, cargo and freight money aforesaid may be condemned and sold to pay said salvage with costs charges and expenses, and that said libelant may have such further and other relief in the premises as in law and justice it may be entitled to receive.

Dated, Honolulu, T. H., December 30th, 1909.

MATSON NAVIGATION COMPANY,
By Its Agent,
CASTLE & COOKE, LIMITED,
By (Sgd.) E. D. TENNEY,
Its Vice-President.

(Sgd.) SMITH & LEWIS,
Proctors for Libellant. [86]

United States of America,
Territory of Hawaii,
County of Oahu,—ss.

Now comes E. D. Tenney, and being first duly sworn, upon oath deposes and says:

That he is the Vice-president of Castle & Cooke, Limited, the agent of the Matson Navigation Company, a corporation, the libelant named in the within libel, and is duly authorized to sign the foregoing libel and to make this verification on its behalf; that none of the officers of said corporation libelant are within the Territory of Hawaii, and that for that reason deponent makes this verification on its behalf; that he is acquainted with the facts of this case and that he has acquired a knowledge of the matters and things set forth in said Libel from John W. McAllister, the master of the tug "Intrepid" named in the within Libel, and that the matters and things therein set forth are true to the best of deponent's knowledge and belief.

(Sgd.) E. D. TENNEY.

Subscribed and sworn to before me this 30th day of December, 1909.

[Seal] (Sgd.) A. K. F. YAP,
Notary Public, First Judicial Circuit, Territory of
Hawaii. [87]

[Title of Court and Cause—No. 115.]

Claimant's Answer [in Cause No. 115].

To the Honorable SANFORD B. DOLE, Judge of the United States District Court in and for the Territory of Hawaii:

The answer of John Henry, master and claimant, to the libel of Inter-Island Steam Navigation Company, Limited, a corporation, the libellant in the above-entitled cause, against the British ship "Celtic Chief," her tackle, apparel, furniture, machinery, boats, appurtenances, cargo and freight money, the respondent in said cause, and against all persons lawfully intervening for their interests therein in a cause of salvage, civil and maritime, alleges: [104]

1. Answering the first article in the said Libel, this claimant admits that the said libellant now is, and at all times mentioned in the said Libel was, a corporation organized and existing under and by virtue of the laws of the Territory of Hawaii.

2. Answering the second article in said Libel, this claimant alleges that he is ignorant of all the matters and things in said second article alleged, so that he can neither admit nor deny the same; wherefore on that account he calls for strict proof thereof.

3. Answering the third article in said Libel, this claimant admits that the said British ship "Celtic Chief" was and now is a vessel of the tonnage of 1789 tons gross; but denies that the said ship was or now is of the value of \$50,000; this claimant admits that the said ship was laden with a cargo of fertilizer, and general merchandise destined for the port of Honolulu; but denies that the value of said cargo together

with the freight money of the said ship was or is the sum of \$135,000.

4. Answering the fourth article in said Libel, this claimant admits all of the matters and things in said fourth article alleged except the date of stranding, as to which this claimant denies that said stranding occurred on the 5th day of December, 1909, and alleges that the said stranding occurred at about 2:30 A. M. of the 6th day of December, 1909; and further answering said fourth article, this claimant alleges that the coral reef upon which the said ship stranded as aforeaid was sandy and comparatively soft.

5. Answering the *fifth* article in said Libel, this claimant [105] denies that he requested the said libellant to send its vessels, steamers, crews, servants, donkey-hoist and barge, or stevedores to his assistance or the assistance of the said ship, and alleges that when the said libellant offered its services, this claimant consented to the rendition by the libellant of such services as it might be able to give; this claimant denies that the steamer "Mauna Kea" suffered any risk or encountered any peril whatsoever during any of the times mentioned in said fifth article, and alleges that at all said times the said steamer was perfectly safe and free from all risk, danger and peril; this claimant is ignorant as to the exact times alleged in said fifth article, so that he can neither admit nor deny the same, wherefore on that account he calls for proof of the allegations thereof in said fifth article contained; this claimant admits that upon the arrival of the said steamer "Mauna Kea," the said "Celtic Chief" was hard aground on said coral reef; but denies that she was in a position of great peril, or that

she was in any danger of destruction, and alleges that the said ship was occupying an easy position or bed in the soft coral of the said reef without danger of any considerable injury to herself or her cargo, within easy reach of ample assistance for the purpose of removing her from the said reef to a place of safety; this claimant denies that the said steamer "Mauna Kea" strained continuously on her hawser or that she at all times exerted the power of her engines as in said fifth article alleged; as to all other matters and things in said fifth article alleged, this claimant is ignorant thereof so that he can neither admit nor deny the same, wherefore on that account he calls for proof thereof. [106]

6. Answering the sixth article in said Libel, this claimant is ignorant as to the exact times in said sixth article alleged, so that he can neither admit nor deny the same; wherefore on that account he calls for proof thereof; this claimant admits that the steamer "Mikahala" while pulling on the said "Celtic Chief" had two hawsers made fast to the said "Celtic Chief"; this claimant denies that the said steamer "Mikahala" strained continuously on her said hawser or exerted the power of her engines as in said sixth article alleged, and denies that the said "Celtic Chief" was pulled off said reef and floated into deep water at the hour of 12:20 A. M. on the 9th day of December, 1909, and alleges that the said "Celtic Chief" was pulled off said reef and floated into deep water at about the hour of 12 midnight of the evening of December 8th, 1909; this claimant is ignorant as to all other matters in said sixth article alleged, so that he can neither admit nor deny the same; wherefore

on that account he calls for proof thereof;

7. Answering the seventh article in said Libel, this claimant is ignorant of the exact times in said seventh article alleged, so that he can neither admit nor deny the same; wherefore on that account he calls for proof thereof; this claimant denies that the steamer "Helene" strained continuously on her hawsers or exerted the power of her engines as in said seventh article alleged or that the said "Celtic Chief" was pulled off said reef and floated into deep water of 12:20 A. M. on December 9, 1909, and alleges that said "Celtic Chief" was pulled off said reef and floated into deep water at about 12 midnight of the evening of December 8, 1909; as to all other matters and things in said seventh article alleged, this claimant is ignorant, so that he [107] can neither admit nor deny the same; wherefore on that account, he calls for proof thereof.

8. Answering the eighth article in said Libel, this claimant is ignorant of the exact times in said eighth article alleged, so that he can neither admit nor deny the same; wherefore on that account, he calls for proof thereof; this claimant denies that the steamer "Likelike" strained continuously on her hawsers or exerted the power of her engines as in said eighth article alleged and denies that the said "Celtic Chief" was pulled off said reef at 12:20 A. M. of December 9th, 1909, and alleges that she was pulled off at about 12 midnight of December 8th, 1909; this claimant denies that the only vessels pulling and straining on their hawsers attached to said "Celtic Chief" were the said steamers "Helene," "Mikahala" and "Like-like," and denies that the said three last-mentioned

steamers or any of them pulled the said "Celtic Chief" off said reef or caused her to be floated into deep water; this claimant admits that the German cruiser "Arcona" towed the said "Celtic Chief" out to sea and away from the said reef to deep water, when said "Celtic Chief" came off the said reef, and then left her after said "Celtic Chief" had reached a place of safety; this claimant admits that the "Likeliike" towed said "Celtic Chief" to an anchorage, and that on the morning of December 9th, 1909, the steamer "Maui" towed said "Celtic Chief" into the harbor of Honolulu, where she now lies; this claimant alleges that the said towage by the said "Likeliike" and "Maui" were ordinary towage services only performed after arrangement therefor between this claimant and said libellant, and that therefore for said services said libellant is not entitled to any extraordinary or salvage award; as to all other matters and things alleged in said eighth article, this claimant is [108] ignorant so that he can neither admit nor deny the same, wherefore on that account, he calls for proof thereof.

9. Answering the ninth article of said Libel, this claimant denies that any of the said steamers or their shore boats, masters or crews, were exposed to any risk or peril during the operations in said Libel mentioned.

10. Answering the tenth article in said Libel, this claimant admits that some portion of the cargo of said "Celtic Chief" was transferred by the libellant from the said "Celtic Chief" to the said "Mikahala" and "Helene," but alleges that he is ignorant as to the exact quantity of the cargo so transferred, so that

he can neither admit nor deny the allegations as to such quantity in said tenth article, wherefore on that account, he calls for proof thereof; this claimant is ignorant as to the allegations of the employment by the libellant of a gang of stevedores in the said transfer of cargo, so that he can neither admit nor deny the same, wherefore on that account he calls for proof thereof; this claimant denies that the libellant by means of stevedores or the crews of its said steamers worked continuously both day and night in the carrying on of the discharge and transfer of said cargo or that said work was attended with any other than ordinary difficulty; this claimant admits that a **donkey-hoist** and barge were anchored by the side of the said "Celtic Chief" and used in the said work of discharging and transferring said cargo, but this claimant denies that the said donkey-hoist or barge were exposed to any danger of loss, damage or destruction or that they were in a position of any peril.

11. Answering the 11th article in said Libel, this claimant denies that the said "Celtic Chief" while stranded on said reef was in a position of imminent peril or in danger of having her [109] hull stove in or her cargo being greatly damaged or destroyed or that said "Celtic Chief" was in danger of becoming a total wreck or loss; or that had it not been for the effort of said steamers "Helene," "Mikahala," "Likelihi" and "Mauna Kea" or any of them in pulling upon said "Celtic Chief" with the exercise of skill and care on the part of their masters and crew and Captain Haglund and Captain Clark and the services of the other servants of said libellant, the said "Celtic Chief" would have become a total loss; this

claimant alleges that the said "Celtic Chief" lay in soft coral on the said reef and that during the whole time while she lay stranded, the weather was fine and the sea smooth, and that both the said "Celtic Chief" and her cargo could have been saved without the services of the said libellant; this claimant denies that the said steamers of the said libellant or any of them pulled continuously upon the said "Celtic Chief."

12. Answering the twelfth article in the said Libel, this claimant denies that the said "Celtic Chief" or her cargo were saved from total loss by or through the efforts of the steamers of the said libellant, their respective masters and crews and its other servants, either solely or together with the said tug "Intrepid" or the said Miller Salvage Co., Ltd., or the said German cruiser "Arcona," or together with all of them; and this claimant alleges that the said "Celtic Chief" and her cargo were in no danger of total loss, that the said libellant contributed but slight assistance to the said "Celtic Chief" and her cargo and that the said German cruiser "Arcona" was the chief agent in pulling the said "Celtic Chief" off the said reef, aided to some extent by the said Miller Salvage Co., Ltd.; this claimant [110] denies that the said tug "Intrepid" was of any service whatsoever at any time to the said "Celtic Chief" or her cargo.

13. Answering the 13th article in said Libel, this claimant admits that the libellant performed some services of a salvage nature, and that to the said libellant and its servants and employees something is due for services rendered; but this claimant denies that without the aid thereof the said "Celtic Chief" would have become a total loss, and denies that the

value of the said services is worth the sum of \$35,000; that this claimant affirms and alleges that the said sum of \$35,000 claimed by the said libellant is grossly excessive and exorbitant.

14. And further answering the said Libel, this claimant alleges that the said "Celtic Chief" was pulled off the said reef principally by the German cruiser "Arcona," a vessel of great size and having a horse-power of 8,200 units and equipped with large and powerful anchors; that at the time the said "Celtic Chief" came off the said reef the said cruiser was exerting a powerful strain upon two powerful wire hawsers attached to the said "Celtic Chief," which together with the power exerted by means of an anchor supplied by said Miller Salvage Co., Ltd., and the action of the incoming tide loosened the said "Celtic Chief" in her bed in the said coral reef and enabled the said cruiser by her own power alone to pull the said "Celtic Chief" into deep water and a place of safety; that at the time the said "Celtic Chief" came off the said reef, the steamers of the said libellant were exerting little or no strain upon their hawsers attached to the said "Celtic Chief" and that the said libellant contributed very slightly to the floating of the said "Celtic Chief"; this claimant alleges that until the said German cruiser attached its hawsers to the said "Celtic Chief" and the said Miller Salvage Co., Ltd., placed its anchor [111] and attached its line to the said "Celtic Chief," the said libellant was unable to prevent the said "Celtic Chief" from going further ashore.

WHEREFORE this claimant prays that the said Libel may be dismissed and that he may have his costs herein.

Dated January 11, 1910.

(Sgd.) JOHN HENRY,
Claimant.

(Sgd.) HOLMES, STANLEY & OLSON,
Proctors for Claimant.

United States of America,
Territory of Hawaii,
City and County of Honolulu,—ss.

John Henry, being first duly sworn, on oath deposes and says: That he is the master of the British ship "Celtic Chief" and bailee of said ship and her cargo and freight money and the claimant herein; that he has read the foregoing answer and knows the contents thereof, and that the same is true to the best of his knowledge, information and belief; that he makes this verification from personal knowledge, as well as from information received from his officers, the members of his crew and others engaged in said salvage operations.

(Sgd.) JOHN HENRY.

Subscribed and sworn to before me this 11th day of January, 1910.

[Seal] (Sgd.) P. H. BURNETTE,
Notary Public, First Judicial Circuit, Territory of
Hawaii. [112]

[Endorsed]: No. 115. Claimant's Answer. Filed
Jan. 11, 1910. [113]

[Title of Court and Cause—No. 116.]

Claimant's Answer [in Cause No. 116].

To the Honorable SANFORD B. DOLE, Judge of the United States District Court in and for the Territory of Hawaii:

The answer of John Henry, master and claimant, to the Libel of Miller Salvage Co., Ltd., a corporation, the libellant in the above-entitled cause, against the British ship "Celtic Chief," her tackle, apparel, furniture, machinery, boats, appurtenances, cargo and freight money, the libellee in said cause, and against all persons lawfully intervening for their interests therein in a cause of salvage, civil and maritime, alleges:

1. Answering the first article in said Libel; this claimant admits that the said libellant is a corporation organized under the laws of the Territory of Hawaii, but alleges that he is ignorant of all other the matters and things in said article alleged, so that he can neither admit nor deny the same, wherefore on that account he calls for proof thereof. [114]

2. Answering the second article in said Libel, this claimant admits that the said British ship "Celtic Chief" was and now is a vessel of the tonnage of 1,789 tons gross; but denies that the said ship was or now is of the value of \$40,000; this claimant admits that the said ship was laden with a cargo of fertilizer and general merchandise destined for the port of Honolulu; but denies that the value of the said cargo, together with the freight money of the said ship is the sum of \$130,000.

3. Answering the third article in said Libel, this

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claimant admits that the said British ship "Celtic Chief" ran ashore and stranded as in said third article alleged except as to the date of said stranding, and alleges that the said stranding occurred not on Sunday, December 5th, 1909, but at about 2:30 A. M. of the 6th day of December, 1909; and further answering said third article, this claimant alleges that the coral reef upon which the said ship stranded as aforesaid was sandy and comparatively soft.

4. Answering the fourth article in said Libel, this claimant admits the allegations in the first paragraph of said fourth article, and admits that on the morning of December 6, 1909, said Miller came aboard said "Celtic Chief" and offered to send out vessels to take out cargo from said "Celtic Chief"; and this claimant further alleges that at the same time Miller stated to this claimant that he, said Miller, had a large anchorage which could be used to advantage in assisting the said "Celtic Chief" and stated that he would forthwith bring the same to the said "Celtic Chief" for the purpose of assisting her, but that the said libellant and said Miller failed to bring the said anchor to the assistance of the said ship until the morning of the 8th of December, 1909, two days after the said Miller had agreed to bring the same to the assistance of the said ship. [115]

5. Answering the fifth article of the said Libel, this claimant is ignorant of the matters and things in said fifth article alleged, so that he can neither admit nor deny the same, wherefore he calls for proof thereof.

6. Answering the sixth article in the said Libel, this claimant admits that the libellant unloaded and

took ashore about 239 tons of the cargo of said vessel, but alleges that he is ignorant as to whether or not the cargo so taken ashore was of the value in said sixth article alleged, so that he can neither admit nor deny the same, wherefore on that account he calls for proof thereof.

7. Answering the seventh article in said Libel, this claimant denies that the said cargo taken ashore as aforesaid was worked with great or any except ordinary difficulty, and denies that there was a heavy swell running during the operations by which the said cargo was taken ashore; this claimant is ignorant as to the other matters and things in said article seventh alleged, so that he can neither admit nor deny the same, wherefore on that account he calls for proof thereof.

8. Answering the eighth article in said libel, this claimant admits the allegations in the first paragraph of said eighth article; this claimant alleges that he is ignorant as to the remaining allegations in said eighth article, so that he can neither admit nor deny the same, wherefore on that account he calls for proof thereof.

9. Answering the ninth article in said Libel, this claimant admits that on the morning of December 8th, 1909, the libellant placed a large anchor about 1,000 feet dead astern of the said [116] "Celtic Chief" and that a steel hawser was taken therefrom to the said "Celtic Chief"; this claimant denies that the said hawser was a new one; that claimant is ignorant whether or not the said hawser was a $3\frac{1}{2}$ inch hawser, and therefore can neither admit nor deny the same, wherefore on that account he calls for

proof thereof; this claimant admits that the said hawser was connected to purchase tackle on the decks in such manner that the capstan and steam winch could be used to haul taut the said hawser, and alleges that the tackle so used belonged in part to the said "Celtic Chief" and that the said steam winch belonged to the said "Celtic Chief" and was the only power other than the hand capstan of the ship used for the purpose of placing a strain on the said hawser; this claimant admits that about 10 P. M. of said December 8th, 1909, a hard strain was placed on the said hawser; and this claimant further alleges that but for the said steam winch and other appliances belonging to the said "Celtic Chief" the said libellant would have been unable to exert the strain exerted on the said hawser attached to the said anchor.

10. Answering the tenth article in said Libel, this claimant admits the allegations therein contained, but alleges that at the time the said hawser attached to the said anchor was made taut, the German cruiser "Arcona," a powerful vessel having 8,200 horse-power, had placed two wire hawsers aboard said "Celtic Chief" and with powerful anchors placed ahead was exerting a powerful strain upon the said hawsers, and it was due in large measure to the assistance so given by the said cruiser that the said "Celtic Chief" was prevented from going farther in shore.

11. Answering the eleventh article in said Libel, this claimant denies that the libellant was the sole cause of the floating of the said "Celtic Chief," and denies that the said "Celtic Chief" [117] was moved seaward until shortly before 12 o'clock mid-

night of the evening of December 8th, 1909; and this claimant alleges that at the time the said "Celtic Chief" first began to move seaward, the said German cruiser was exerting a powerful strain upon the said hawsers placed by her upon the said "Celtic Chief" and that the "Celtic Chief" was moved in large measure and principally by the power so exerted by the said cruiser, and not, except in lesser degree, by the said libellant; this claimant further alleges that the said "Celtic Chief" was finally floated by the said German cruiser.

12. Answering the twelfth article in said libel, this claimant alleges that the said cruiser was the chief agent in pulling the said "Celtic Chief" from the said reef to deep water and a place of safety.

13. Answering the thirteenth article in said Libel, this claimant denies that the vessels of the libellant with their store, boats, masters and crews, or any of them or any part thereof, were exposed to any risk or peril during the said salvage operations; and alleges that the said operations were carried on without danger and with safety to all agencies and persons therein engaged.

14. Answering the fourteenth article in said Libel, this claimant denies that the said "Celtic Chief" was in a position of great danger or was in imminent peril as in said fourteenth article alleged, and denies that her cargo was in great danger; and denies that the said vessel was prevented from becoming a total loss by the said libellant or its manager or servants.

15. Answering the fifteenth article in said Libel, this claimant denies that the said "Celtic Chief"

with the cargo remaining in her was pulled off the reef and floated or saved from total loss solely by or through the efforts of said Miller, his [118] men and appliances, save and excepting some assistance rendered by the vessels of the Inter-Island Steam Navigation Company, Limited, and slight assistance of the said cruiser; and denies that the libellant could or would have pulled the said "Celtic Chief" off the said reef or into safe water without the assistance of the said cruiser.

16. Answering the sixteenth article in said Libel, this claimant denies that the libellant's services were of great value in saving the said "Celtic Chief" from total destruction and denies that the said "Celtic Chief" was in danger of total destruction; this claimant admits that the libellant performed some services of a salvage nature, and that to the said libellant something is due for services rendered; but this claimant denies that the value of the said services is the sum of \$20,000 and affirms and alleges that the said sum of \$20,000 claimed by the said libellant is grossly excessive and exorbitant.

17. And further answering the said Libel, this claimant alleges that the said "Celtic Chief" with her cargo was pulled off the said reef principally through the efforts of the said cruiser; that at the time the said "Celtic Chief" first began to move seaward and at the time that she came off the said reef, the said cruiser was exerting a powerful strain upon two powerful wire hawsers attached to the said "Celtic Chief," and thus furnish the chief agency which resulted in floating the said "Celtic Chief," and that together with the action of the incoming tide, the said

"Celtic Chief" was so loosened in her bed in the said coral reef, the said cruiser with the lesser assistance of the libellant was able to float the said ship; this claimant further alleges that during the whole time while the said ship was stranded as aforesaid, the weather was fine and the sea [119] smooth, and the said "Celtic Chief" and her cargo were in little peril; and this claimant further alleges that at no time were the libellant's vessels, appliances or servants or employees in any danger or subject to any risk.

WHEREFORE this claimant prays that the said Libel may be dismissed and that he may have his costs herein.

Dated January 11th, 1910.

(Sgd.) JOHN HENRY.

Claimant.

(Sgd.) HOLMES, STANLEY & OLSON,
Proctors for Claimant.

United States of America,
Territory of Hawaii,
City and County of Honolulu,—ss.

John Henry, being first duly sworn, on oath deposes and says:

That he is the master of the British Ship "Celtic Chief" and bailee of said ship and her cargo and freight money, and the claimant herein; that he has read the foregoing answer and knows the contents thereof, and that the same is true to the best of his knowledge, information and belief; that he makes this verification from personal knowledge as well as from information received from his officers, the mem-

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bers of his crew and others engaged in said salvage
operations.

(Sgd.) JOHN HENRY.

Subscribed and sworn to before me this 11th day
of January, 1910.

[Seal] (Sgd.) P. H. BURNETT,
Notary Public First Judicial Circuit, Territory of
Hawaii.

[Endorsed]: No. 116. Claimant's Answer. Filed
Jan. 11, 1910. [120]

[Title of Court and Cause—No. 117.]

Claimant's Answer [in Cause No. 117].

To the Honorable SANFORD B. DOLE, Judge of
the United States District Court, in and for the
Territory of Hawaii:

The Answer of John Henry, master and claimant,
to the Libel of Matson Navigation Company, a California
corporation, the libellant in the above-entitled
cause, against the British ship "Celtic Chief," her
tackle, apparel, furniture, machinery, boats, appur-
tenances, cargo and freight money, the respondent
in said cause, and against all persons lawfully inter-
vening for their interests therein in a cause of sal-
vage, civil and maritime, alleges:

1. Answering the first article in said Libel, this
claimant is ignorant of the matters and things alleged
in said first article, so that he can neither admit nor
deny the same, wherefore on that account he calls for
proof thereof. [121]

2. Answering the second article in said Libel, this

claimant is ignorant of the matters and things alleged in said second article, so that he can neither admit nor deny the same, wherefore on that account he calls for proof thereof.

3. Answering the third article in said Libel, this claimant admits that the said British ship "Celtic Chief" was and now is a vessel of the gross tonnage of 1789 tons, but denies that the said ship was or now is of the value of \$50,000.00; this claimant admits that the said ship was laden with a cargo of fertilizer and general merchandise destined for the port of Honolulu, but denies that the value of said cargo together with the freight money of the said ship was or is the sum of \$135,000.00.

4. Answering the fourth article in said Libel, this claimant admits all the matters and things in said fourth article alleged except the date of stranding, as to which this claimant denies that said stranding occurred on the 5th day of December, 1909, and alleges that the said stranding occurred at about 2:30 o'clock A. M., of the 6th day of December, 1909; and further answering said fourth article, this claimant alleges that the coral reef upon which said ship stranded as aforesaid was sandy and comparatively soft.

5. Answering the fifth article in said Libel, this claimant admits that the tug "Intrepid" appeared near the place of said stranding about seven o'clock A. M., on the 6th day of December, 1909, but denies that the said tug found the said "Celtic Chief" to be, or that the said "Celtic Chief" was in a position of great peril or in danger of destruction by reason of her position on said coral reef; this claimant admits

that the said tug with this claimant's consent made fast her hawser to said "Celtic Chief" and that said [122] hawser continued fast to said "Celtic Chief" until about noon on December 8th, 1909; this claimant denies that the said tug strained continuously on her said hawser or that she exerted the power of her engines as in said libel alleged; this claimant admits that at about noon on December 8th, 1909, the hawser of the said tug "Intrepid" was cut on board of said "Celtic Chief" and cast off said "Celtic Chief" by this claimant; this claimant denies that the said tug thereafter at any time offered his or any hawser to this claimant or to the said "Celtic Chief"; this claimant admits that the master of the said tug informed this claimant that the said tug would remain near by ready and willing to give assistance; this claimant is ignorant as to whether or not the said tug stood by within hailing distance of the said "Celtic Chief" or stood by ready or willing to render assistance until ten o'clock A. M. of December 9th, 1909, so that he can neither admit nor deny the same, wherefore on that account he calls for proof thereof; this claimant denies that the said tug was able to render any assistance to the said "Celtic Chief" after the time that the said tug's hawser was cut as aforesaid; and further answering this claimant alleges that the said tug from the time that it placed its line aboard the said "Celtic Chief" until the said line was cut as aforesaid rendered no assistance whatever to the said "Celtic Chief," and that its efforts were useless and had no tendency to assist the said "Celtic Chief" either in preventing her from going further ashore or in pulling her off the said reef; that prior

to the time of the cutting of the said hawser, the German cruiser "Arcona," a powerful vessel having 8,200 horse-power and equipped with powerful anchors and appliances, [123] had offered its services to the said "Celtic Chief" provided that it be given the position held by the said tug; that with the assistance at hand and operating, it was evident that the said "Celtic Chief" would not be pulled off the said reef, but that with the aid of a powerful vessel such as the said cruiser and so equipped, that the said "Celtic Chief" could in all probability be pulled off the said reef; that this claimant several times requested the Master of the said tug to yield its position to the said cruiser, which the said master of the said tug refused to do, and finally this claimant warned the said master of the said tug that unless the said tug would yield its position to the said cruiser, this claimant would cut the said tug's hawser; that the said master of the said tug still refusing to yield his position as aforesaid, this claimant did cut the said hawser in order to enable the said cruiser to render assistance to the said "Celtic Chief," without which the said "Celtic Chief" would have been deprived of the powerful assistance of the said cruiser, the chief factor and agency in thereafter pulling the said "Celtic Chief" off the said reef; and further answering this claimant alleges that the master of the said tug when requested by this claimant to state what compensation he would require for his assistance to the said "Celtic Chief" before the said tug's line was placed aboard the said "Celtic Chief," the said master of the said tug demanded the sum of \$20,000, and upon this claimant's refusing to agree

upon the said figure reduced the same to \$10,000, which this claimant also refused.

6. Answering the sixth article in said libel, this claimant admits that the said tug was the first vessel to appear at the scene of the said stranding, but denies that the said tug rendered any valuable services, and denies that the said tug was able to render [124] any valuable assistance to the said "Celtic Chief" either before or after the said tug's line was cut as aforesaid, and denies that the said tug could or would have performed greater or more efficient service than was performed by the said cruiser or any assistance; and this claimant further alleges that by and on account of the unjustified conduct of the said tug in refusing to yield its position to the said cruiser, this claimant was justified in cutting the said line and in refusing to permit the said tug to continue to attempt to render assistance to the said "Celtic Chief"; this claimant denies that before the said cruiser began to render assistance to the said "Celtic Chief" there was fair or any prospect of a successful salving of the said "Celtic Chief" at the hands and with the assistance of the said tug and the other agencies attempting to pull the said "Celtic Chief" off of said reef prior to the appearance at the scene of stranding of the said cruiser.

7. Answering the seventh article in said Libel, this claimant denies that the said tug and its equipment, master and crew, or any of the same, were exposed to any risk or peril during the operations in said Libel alleged and mentioned; and this claimant alleges that during all of said times the weather was fine and the sea smooth.

8. Answering the eighth article in said Libel, this claimant denies that the said "Celtic Chief" while stranded on said reef was in a position of imminent peril or was in great danger of having her hull stove in or her cargo greatly damaged or destroyed or of becoming a total wreck or loss; this claimant alleges that during all the times aforesaid, the weather was fine and the sea smooth and the said "Celtic Chief" lay in a bed in the soft coral of the said reef, within [125] easy reach of ample assistance to save both the said ship and her cargo; that this claimant denies that had it not been for the efforts of the said tug together with the steamers "Helene," "Mikahala," "Likelihi" and "Mauna Kea" in pulling upon the said "Celtic Chief" with the exercise of skill and care on the part of the masters and crews of the said tug and steamers and the services of the other servants of the Inter-Island Steam Navigation Company, Limited, the said "Celtic Chief" would have become a total loss.

9. This claimant, answering the ninth article in said libel, denies that the said tug rendered any efficient service whatever in pulling off the said "Celtic Chief" from said reef or in floating her into deep water, or that the said "Celtic Chief" or her cargo was saved from total or any loss by or through the efforts of the said tug, her master or crew, either alone or together with the assistance of other parties.

10. Answering the tenth article in said Libel, this claimant denies that without the aid of the services of the said tug, the said "Celtic Chief" would have become a total loss, and denies that the services of the tug aforesaid or the said libellant were of any

value whatever to the said "Celtic Chief" or her cargo; and this claimant denies that the said libellant is entitled to any salvage award whatever and affirms that the said libellant's claim of \$15,000.00 is unjust and unfounded.

WHEREFORE this claimant prays that the said libel may be dismissed and that he may have his costs herein.

Dated January 11th, 1910.

(Sgd.) JOHN HENRY,
Claimant.

(Sgd.) HOLMES, STANLEY & OLSON,
Proctors for Claimant. [126]

United States of America,
Territory of Hawaii,
City and County of Honolulu,—ss.

John Henry, being first duly sworn, on oath deposes and says:

That he is the master of the British ship "Celtic Chief" and bailee of said ship and her cargo and freight money and the claimant herein; that he has read the foregoing answer and knows the contents thereof, and that the same is true to the best of his knowledge, information and belief; that he makes this verification from personal knowledge, as well as from information received from his officers, the members of his crew and others engaged in said salvage operations.

(Sgd.) JOHN HENRY.

Subscribed and sworn to before me this 11th day of January, 1910.

[Seal] (Sgd.) P. H. BURNETT,
Notary Public, First Judicial Circuit, Territory of Hawaii.

[Endorsed]: No. 117. Claimant's Answer. Filed Jan. 11, 1910. [127]

Proceedings: Order of Consolidation and Setting Cause for Trial—#115.

From the Minutes of the United States District Court, Vol. 6, Page 646, Monday, January 17, 1910.

[Title of Court and Cause—No. 115.]

On this day came Mr. A. Lewis, Jr., of proctors for libellant herein and also of proctors for libellant in the cause, Matson Navigation Company, Limited, vs. The British Ship "Celtic Chief," etc., No. 117, and Messrs. J. A. Magoon and P. L. Weaver, proctors for libellant in the cause, Miller Salvage Co., Ltd., vs. The British Ship "Celtic Chief," etc., No. 116, and Mr. C. H. Olson of proctors for libellees in each of said causes, whereupon this cause was called for hearing on libellee's motion to consolidate the three causes herein referred to for trial. Mr. Olson stated to the Court that he had filed a motion to consolidate in each of said causes, and it was thereupon agreed between the proctors for all the respective parties, and consented to by the Court, that said motion might be argued in this cause, said argument to apply as well to the motions on file in causes Nos. 116 and 117. Thereupon due argument was had by the

respective proctors in the above named causes, at the conclusion of which the Court granted said motion to consolidate. Upon motion of Mr. Magoon that the said consolidated causes be now set for trial, it was by the Court ordered that the same be continued until January 24, 1910, at 10 o'clock A. M., to be then set for trial. [140]

Proceedings In Re Motion to Consolidate—#116.

From the Minutes of the United States District Court, Vol. 6, Page 646, Monday, January 17, 1910.

[Title of Cause and Cause—No. 116.]

On this day came Mr. A. Lewis, Jr., of proctors for libellant, and Mr. C. H. Olson, of proctors for libellee herein, and this cause was called for hearing on libellee's motion to consolidate this cause with No. 115 and No. 116 for trial; whereupon proceedings relative to said motion were had in cause No. 115, as above set forth. [141]

Proceedings In Re Motion to Consolidate—#117.

From the Minutes of the United States District Court, Vol. 6, Page 646, Monday, January 17, 1910.

[Title of Court and Cause—No. 117.]

On this day came Mr. A. Lewis, Jr., of proctors for libellant, and Mr. C. H. Olson, of proctors for libellee herein, and this cause was called for hearing on libellee's motion to consolidate this cause with No. 115 and No. 116 for trial; whereupon proceedings

Inter-Island Steam Nav. Co., Ltd., et al. 79
relative to said motion were had in cause No. 115,
as above set forth. [142]

[Depositions of John W. McAllister et al.].

[Title of Court and Cause—Nos. 115, 116, 117.]

BE IT REMEMBERED that on Monday, July 24th, 1911, pursuant to order and stipulation of counsel hereunto annexed, at the office of Messrs. Page, McCutchen, Knight and Olney, in the Merchants' Exchange Building, in the City and County of San Francisco, State of California, personally appeared before me, JAMES P. BROWN, a United States Commissioner for the Northern District of California, to take acknowledgments, of bail and affidavits, etc., JOHN W. McALLISTER, a witness produced on behalf of the libellant.

CHARLES PAGE, Esq., appeared as proctor for the libellant, and S. H. DERBY, Esq., appeared as proctor for the claimant, and the said witness, having been by me first duly cautioned and sworn to testify, the truth, the whole truth, and nothing but the truth in the cause aforesaid, did thereupon deposite and say as is hereinafter set forth. [279*—1†]

(It is hereby stipulated and agreed by and between the proctors for the respective parties, that the deposition of JOHN W. McALLISTER may be taken *de bene esse* on behalf of the libellant, at the office of Messrs. PAGE, McCUTCHEN, KNIGHT & OLNEY, in the Merchants' Exchange Building, in

*Page-number appearing at foot of page of certified Transcript of Record.

†Original page-number appearing at foot of page of Depositions as same appears in Certified Transcript of Record.

the City and County of San Francisco, State of California, on Monday, July 24th, 1911, before JAMES P. BROWN, a United States Commissioner for the Northern District of California, and in short-hand by CLEMENT BENNETT.

It is further stipulated that the deposition, when written out, may be read in evidence by either party on the trial of the cause; that all questions as to the notice of the time and place of taking the same are waived, and that all objections as to the form of the questions are waived unless objected to at the time of taking said deposition, and that all objections as to materiality and competency of the testimony are reserved to all parties.

It is further stipulated that the reading over of the testimony to the witness and the signing thereof is hereby expressly waived.) [280—2]

[**Deposition of John W. McAllister, for Libellant.**]

JOHN W. McALLISTER, called for the libellant, sworn.

Mr. PAGE.—Q. What is your name, age, residence and occupation?

A. My name is John W. McAllister; master mariner; age, 48.

Q. Your residence when you are at home, is where? A. Hawaii.

Q. What was the last command that you had while at Hawaii? A. At Hawaii?

Q. Yes.

A. My last command was in charge of the tugboat "Intrepid."

Q. Were you in command of that steam-tug in

(Deposition of John W. McAllister.)

December, 1906? A. Yes, sir.

Q. What is the size of that vessel, if you remember?

A. I could not exactly tell you her size; somewhere about 150 to 200 tons. I could not tell you exactly; somewhere in that average.

Q. Can you give her horse-power?

A. Her horse-power was on an average about 350.

Q. How long have you been going to sea?

A. About 35 years.

Q. In all kinds of vessels? A. All kinds.

Q. I suppose you have filled all positions from a seaman up to master? A. Yes, sir.

Q. Were you in command of the "Intrepid" in December, 1909? A. In December, yes, sir.

Q. Do you remember anything having occurred at that time to a vessel named the "Celtic Chief"?

A. I do.

Q. On what day did you have anything to do with the "Celtic Chief"? Do you remember what day of the month it was? [281—3]

A. At a quarter past 7 on December 6th, if I remember correctly.

Q. What happened then? You were in command of this same steam schooner?

A. Yes, sir, a towboat.

Q. I mean towboat. Did you leave the port of Honolulu on that morning? A. Yes, sir.

Q. At whose suggestion? A. My own.

Q. What made you go?

A. It was telephoned to me by the pilots that there

(Deposition of John W. McAllister.)

was a vessel outside, and they thought she was close in shore, on the lee side of the channel. I got up steam immediately and went out. I found that she was ashore.

Q. She was ashore?

A. She was ashore. I gave him my hawser.

Q. Wait a moment before you go any further. When you got there in what position did you find her with reference to the shore? Was it a reef?

A. It was not exactly a reef that you might call it; it was a shoal; it was level bottom; it is all reef, or a shoal whichever you have a mind to call it.

Q. How was she placed with reference to this reef or shoal? A. In what way do you mean?

Q. Was she facing it or broadside on it?

A. No, sir, right straight head on to it.

Q. Head on to it? A. Yes, sir.

Q. And ashore? A. Yes, sir.

Q. What was the character of the weather when you got out there?

A. Very moderate, light southerly winds, with a light southerly swell, which was against her.

Q. Why do you say it was against her?

A. Because it was hitting right on her stern, and forcing her further ashore. [282—4]

Q. At that time was she in danger of going further ashore? A. She certainly was.

Q. Was she in any danger of going broadside—

A. (Intg.) No danger of going broadside.

Q. Or would she go further ashore?

A. With the wind or swell.

(Deposition of John W. McAllister.)

Q. Your opinion was as the swell then was—

A. (Intg.) The swell and the wind was right in her favor to drive her right straight ashore, right ahead on.

Q. As it then was? A. As it was.

Q. If there had been any change of any kind in the swell or wind, would it affect her so as to throw her partially broadside? A. Yes, sir.

Q. Have you any knowledge of the winds and surf down there? A. I have a little.

Q. How long had you been engaged in those waters? A. About 18 years.

Q. What was the chance of there being any change in the direction of the swell, or in the direction of the wind at that time of the year?

A. The chance was for the winds to be in her favor, or blowing offshore.

Q. If anything?

A. If anything. At that time of the year the winds could not be trusted to. It is liable to come, anyway.

Q. Now, what did you do when you got there?

A. I gave her my hawser.

Q. What kind of a hawser?

A. Three and a half inch steel cable attached to a fourteen inch manilla rope.

Q. Was there any particular trouble in getting it aboard? A. None at all. [283—5]

Q. After you got everything made fast what did you then do? A. I proceeded to tow on the ship.

Q. Directly astern?

(Deposition of John W. McAllister.)

A. Yes, sir; right square astern.

Q. What was the character of the force that you put on with reference to the power of your own boat?

A. Well, the vessel was 350 horse-power and I gave her all she had.

Q. During that day, did any other boat or boats come up? A. Yes, sir, in the afternoon.

Q. Do you remember what boats they were?

A. Let me see. I think it was the "Mauna Kea."

Q. Any other one?

A. The other one was the "Helene." I have forgotten. It was sometime back. Excuse me, was it the "Helene" or "Maui" one of the two boats?

Q. The "Mikahala."

A. That is right. Was the other one the "Helene" or the "Maui"?

Q. The "Helene." A. All right.

Q. That was on Monday at 2 P. M.?

A. Yes, sir.

Q. Did they make fast and pull too?

A. Yes, sir.

Q. At that time all three pulling together, did you notice any change at all? A. None at all.

Q. On the next day did another vessel come up, the "Helene"? A. They changed it.

Q. The "Helene" took the place of which one?

A. The "Mauna Kea."

Q. She pulled with you also? A. Yes, sir.

Q. Did you succeed in pulling her off?

A. Not that day.

Q. Not that day? A. No, sir.

Q. The next day did somebody else come up?

(Deposition of John W. McAllister.)

A. No, sir. [284—6]

Q. How about the German cruiser?

A. That was on the third day.

Q. The "Helene" was the second day?

A. Monday, Tuesday, and Wednesday the German cruiser came up.

Q. The German cruiser "Arcona" came up?

A. Yes, sir.

Q. What happened when the "Arcona" came up?

A. What happened?

Q. Yes. A. Well, in regards to what?

Q. Any change in your position?

A. No, sir, anything more than they asked me to let go my hawser.

Q. Who asked you?

A. I don't know who he was; for that reason I took no notice.

Q. Somebody on board of the "Celtic Chief"?

A. No, sir. I learned afterwards it was a man from Theodore H. Davies & Co. that I think were agents for the ship.

Q. That man must have come out in a boat?

A. He was in a boat with President Kennedy of the Inter-Island Steamship Company. He was sitting in the boat at the time. But the man I did not know at the time I was speaking to him.

Q. He asked you to let go your hawser?

A. He asked me to slack up and let go my hawser. I said, "I don't know you and I am not going to let go."

Q. What happened then?

A. He says, "If you don't let go I will cut it." I

(Deposition of John W. McAllister.)

says, "That is up to you whoever you might be."

Q. Did they cut it?

A. They cut it aboard the ship.

Q. And the "Arcona" took her place?

A. She came in and run our cable in. She did not exactly take my place because she had plenty of room outside of my place. [285—7]

Q. Did she send her cable aboard of the "Celtic Chief"?

A. She sent her cable aboard of the "Celtic Chief."

Q. Did she tow?

A. I don't think she did; in fact, I am most sure of it. If I could explain the whole thing without questions I could tell you.

Q. You can go ahead.

A. When they cut my cable I made a round or two, and went on the lee side of them within hailing distance. I went aboard of the ship and saw the master and asked him if he required my assistance any more. He told me no. I said, "Well, I will lay here anyway within hailing distance of you. In case you need me I am within hailing distance."

Q. What about the "Arcona"? Did you see her do anything?

A. When she came on the reef—do not put this down. I will tell you first and explain it afterwards so that you can understand.

Mr. DERBY.—No, let us have it all down.

Mr. PAGE.—Proceed.

A. Well, let me see. I don't know exactly how to get around that so as to make it as short as possible.

(Deposition of John W. McAllister.)

We will put it this way. The Miller Salvage Company had lain an anchor astern of the "Celtic Chief" about halfway between the "Celtic Chief" and—how do you pronounce that?

Q. The "Arcona"?

A. There was a buoy in his anchor.

Q. Was that the "Arcona's" anchor?

A. No, sir. The Miller Salvage Company's anchor which he had a purchase of aboard of the ship attached to this anchor which certainly did assist her in getting off the reef. In the position that I was laying at the time—have you got the time when she got off? Excuse me. [286—8]

Q. 12:30 in the night?

A. Yes, sir. From the electric lights of the "Arcona," or however you may pronounce it, I could see this buoy very plainly. The "Celtic Chief" came off the reef, and was close to this buoy before the "Arcona" picked her anchor up. That is about as sure as I can give it to you.

Q. Had the "Arcona" dropped an anchor?

A. She had, two.

Q. Did the "Arcona" do any towing between the time that she sent her cable aboard and the time that the "Celtic Chief" came off?

A. She done it some time in the afternoon, but not at the time that she came off.

Q. Then at the time she came off, in your opinion, the "Arcona" was not really towing?

A. No, sir.

Q. Do you know how many hours your boat was towing on the vessel before your line was cut?

(Deposition of John W. McAllister.)

A. 53 hours.

Q. 53 hours?

A. Yes, sir; if I recollect correctly.

Q. That would be Monday, Tuesday and Wednesday? A. Yes, sir.

Q. And during all that time what strain were you placing on your hawser?

A. Full speed right straight through, whatever power the boat had.

Q. You never let up?

A. I never let up. There was occasionally that the engineer might have let up, unbeknown to me.

Q. How long did you stay there after your line was cut ready to give any assistance which might be required? A. Until the vessel went to the dock.

Q. Do you know whether or not there was any understanding or agreement between your boat and the "Celtic Chief" with reference [287—9] to taking the vessel into Honolulu after she should float? A. No, sir.

Q. In your opinion from your knowledge of the locality, was the "Celtic Chief" in a safe or a dangerous place at the time you took hold?

A. In a dangerous place.

Q. In your opinion as a seaman, and a tugboat man, were the services of your tug of any value whatever in preventing the ship from going further on the reef? A. It certainly was.

Cross-examination.

Mr. DERBY.—Q. You say you were in command of the "Intrepid," Captain. Were you in fact her master? A. What is that?

(Deposition of John W. McAllister.)

Q. Were you in fact the master of the "Intrepid"?

A. Yes, sir.

Q. Were you not her mate and simply acting as her master at that time?

A. I relieved the master when he took the trip from Honolulu to San Francisco. I was master of the boat.

Q. When did he take that trip?

A. He took that trip, I think it was on the first of the month, if I am not mistaken. I have forgotten the date that I relieved him.

Q. Was he not coming back to resume command?

A. He certainly was, which he did.

Q. When he came back, you were simply mate?

A. I went back mate.

Q. You don't know yourself the size of the "Intrepid." It is only a guess on your part?

A. It is partly guess. I could find out, but I have forgotten exactly her size.

Q. Are you sure about the horse-power?

A. The horse-power I got from the engineer.

Q. He gave you 350 as horse-power?

A. Yes, sir.

Q. You are sure of that?

A. I am sure he gave it to me. [288—10]
Whether she is or not I don't know.

Q. Had you ever been master of a steam vessel before? A. Yes, sir.

Q. When? A. When?

Q. Yes.

A. I was master of a towboat for three years and a half in the territorial tugboat "Eleu." I was

(Deposition of John W. McAllister.)

master of the "Helene," of the "Maui," of the "James McKee," and the towboat "Eleu."

Q. These towboats were smaller boats than the "Intrepid"? A. Which?

Q. Both the towboats that you mentioned. The "Eleu" was much smaller than the "Intrepid"?

A. Smaller but more powerful.

Q. Were you master of these vessels before you went as mate on the "Intrepid"? A. Yes, sir.

Q. You went from being master on those boats, to mate of the "Intrepid"?

A. I resigned from the Wilder Steamship Company to take the towboat "Eleu."

Q. Then you left the "Eleu" to become mate of the "Intrepid"?

A. I left there and came up here to the coast and then went back in charge of her.

Q. Had you had much salvage experience before this experience with the "Celtic Chief"?

A. No, sir, not very much.

Q. Did you have any? A. No, sir.

Q. Now, when you went up to the "Celtic Chief" that morning, did you have any conversation with the Master of the "Celtic Chief" before you put your line aboard? A. I did.

Q. Did you not begin by offering to tow him off for the sum of \$20,000? A. I did.

Q. How did you happen to fix that figure?

A. I just merely spoke it in a manner. I never stopped the boat but backed right in. He says, "No, that is too much." [289—10] I says, "Captain, take my line, and we will settle that thing ashore."

(Deposition of John W. McAllister.)

He says, "All right."

Q. Before doing that, did you not reduce your figure from \$20,000 to \$10,000? A. No, sir.

Q. Are you sure of that?

A. Let me see, did I? I might have. I have forgotten about that, whether I did or not, but I was not counting on that at all. I says, "Well, we will not argue about the figure at all; take my line, and when you get off we will settle that affair." There was no time lost in doing it. I was backing up my boat at the time. I don't think I mentioned the two figures. I think it was only the one that I did.

Q. You would not be sure?

A. I would not be certain, I don't think I did.

Q. Who was your engineer at that time?

A. A man by the name of Maurice Barrett.

Q. Did he hear this conversation that you had with the captain of the "Celtic Chief"? A. He did.

Q. Did he hear you make this offer of \$20,000?

A. Yes, sir. That is, I think he did. I will not be certain. I was on top and he was below. Whether he did or did not I don't know, but I think he did.

Q. You say the weather was very moderate, and that there were light southerly winds and a light southerly swell which were all against the "Celtic Chief"? A. Correct.

Q. Did that weather continue while she was on the reef? A. It did.

Q. You say the danger was of her going straight ashore, head on? A. Yes, sir.

Q. In that weather there was no danger of her

(Deposition of John W. McAllister.)

going on broadside? [290—11]

A. Not in that weather; not there at present, but the weather was liable to change at most any time when she certainly would have been liable to go broadside on.

Q. When you went out to her you went right to her and put a line to her stern?

A. Did you not go around to her bow first?

A. No, sir, I could not get there. I had to sound my way in.

Q. You did not try to get around to the bow?

A. No, sir; I had no use for the bow anyway.

Q. Your boat did not go ashore at all during these salvage operations? A. No, sir.

Q. Was not the water fairly deep around the "Celtic Chief"?

A. It was not deep enough to float her. She was ashore.

Q. It was deep enough to float your boat?

A. No, sir, not where she was.

Q. When you went out to her your boat did not bump on the rocks?

A. No, sir. I was astern of her. I sounded my way in with the lead line. I knew the draught of my vessel and I knew what water she could go in on.

Q. Do you remember distinctly the size of that hawser that you put aboard? A. 14.

Q. Are you sure it was 14?

A. $4\frac{3}{4}$ or $3\frac{1}{4}$ inch steel wire.

Q. I am not worrying about the wire. You are sure it was a 14-inch rope?

A. I think it was. I will not be certain.

(Deposition of John W. McAllister.)

Q. Might it not have been a 10-inch rope?

A. It was over 10, I know; it was either 12 or 14. I call it 14.

Q. It was not 13?

A. I don't know of any hawser made of that size.

Q. There is no such hawser as a 13-inch hawser?

[291—12]

A. Not that I know of.

Q. Do I understand you to say, Captain, that you towed continuously on the "Celtic Chief" at full speed during all the time you were out there, both at high water and low water? A. Yes, sir.

Q. What was the use of going full speed at low water?

A. The use was to keep the vessel from going any further on the reef.

Q. She was not likely to go further at low water?

A. I continued on the same speed as far as I know of from my engineer.

Q. Were you watching? A. No, sir.

Q. Were you watching the hawser pretty much all the time? A. I certainly was.

Q. Are you sure that hawser did not get slack at all? A. In the swell; yes.

Q. It sometimes would get slack?

A. In the swell, yes.

Q. Then it would hang in the bight in the water?

A. Yes, sir, and then pick up again.

Q. You say it was the "Helene" that took the place of the "Mauna Kea"?

A. I think it was; either the "Helene" or the "Maui."

(Deposition of John W. McAllister.)

Q. How did the "Mauna Kea" happen to leave?

A. She was a passenger-boat and had to carry the mail.

A. She went off on her regular time?

A. Yes, sir.

Q. On her usual run?

A. I think she did. I will not be certain. That was the reason she had to leave.

Q. Did you not have any conversation with those on board of the "Celtic Chief" in regard to the cutting of your hawser? A. No, sir. [292—13]

Q. Did not the captain or any of the officers of the "Celtic Chief" call out to you at that time?

A. They did.

Q. But you could not hear what they said?

A. No, sir.

Q. You did not know that they wanted to cut your hawser?

A. No, sir. There were four propellers working, and with the noise of the propellers I could not hear a word that was spoken.

Q. Did they not send you a letter asking you to let go your hawser? A. Yes, sir, they did.

Q. Who was that letter signed by?

A. The captain.

Q. You took that as authentic, didn't you?

A. I did.

Q. Then it was not this man from T. H. Davies & Co. who came out in a boat who asked you to let go?

A. Yes, sir, he was the man that asked me first.

Q. Then the letter came later?

A. Then the letter came later.

(Deposition of John W. McAllister.)

Q. You still refused to let go?

A. I still refused.

Q. You knew that they wanted you to go so that the "Arcona" could take your place?

A. Yes, sir, exactly.

Q. And the "Arcona" was a larger boat than yours?

A. Yes. The reason I did not let go was because the three Inter-Island boats were there. They were in the freighting business, and I was in the towing and salvage business, and I had no reason to let go my hawser to make room because there was plenty of room for her without my letting go.

Q. You had the very best position for pulling there, of all the vessels? A. Yes, sir.

Q. No other vessel could have got in as good a position as you were? A. No, sir.

Q. Do I understand you to say that you did not take your vessel [293—14] into Honolulu at all after your hawser was cut? A. I did not what?

Q. That you did not go into Honolulu at all with your boat?

A. I did. I went into Honolulu and got a new hawser and came out.

Q. You were hanging round there all the time?

A. I stayed there until the vessel went into port.

Q. What was your object in doing that?

A. In case he required assistance.

Q. Although he had told you he did not want any assistance?

A. That is quite correct. I remained anyway. I told him I would remain there anyway until he got

(Deposition of John W. McAllister.)

into port, and in case he required me I was there, and he said "All right."

Q. You say that your services were valuable in preventing the "Celtic Chief" from going further up on the reef? A. Yes, sir.

Q. Could not the "Celtic Chief" have put anchors out to help her?

A. Her anchors were out, but her anchors were useless.

Q. Was not the anchor that the Miller Salvage Company put out, of some assistance?

A. Ah, but it was two days later.

Q. Did you ever test your hawser to see what strain was being put on it, Captain? A. No, sir.

Q. You can test the strain on a hawser by putting your foot on it? A. No, sir, you cannot.

Q. You cannot? A. No, sir.

Q. That is your belief as a seaman?

A. Yes, sir.

Q. You have never heard of testing the strength put on hawsers in that way? A. No, sir.

Q. The tendency of your boat was, as I understand, to keep the "Celtic Chief" from going head on the reef? A. Yes, sir. [294—15]

Q. But not to hold her from going broadside?

A. Hold her either way.

Q. There was no danger of her going on broadside?

A. No, sir, not unless the wind changed.

Q. When the "Celtic Chief" came off, did she not come off in the direction of the "Arconia"?

A. Yes, sir.

(Deposition of John W. McAllister.)

Q. I do not quite understand, then, your theory that the "Arcona" did not assist at all in pulling her off?

A. When she lay still why could she assist her?

A. They were pretty close together when the "Celtic Chief" came off; they were almost close together.

Q. Cannot you pull on a ship by heaving on your own anchors? A. You certainly can.

Q. You say you certainly can?

A. You can, yes.

Q. How do you know that the "Arcona" was not doing that?

A. Because she ought to have left the division between the vessels, the space, which she did not. The buoy of the Miller Salvage Company lay halfway between the "Arcona" and the "Celtic Chief" and the "Celtic Chief" was close up to the buoy, but the "Arcona" lay still when she came off of the reef.

Q. The "Intrepid" did not have any anchors down during the operations?

A. No, the "Makahala," the "Helene" and the "Likelike" were heaving on their anchors at the time she came off with the Miller Salvage Company heaving on his tackle.

Q. You could not tell from where you were by seeing whether the "Arcona" was heaving on her anchors or not?

A. I certainly could. I was laying still.

Q. Could you see the "Arcona's" anchor-chain?

A. No, sir, it was not necessary to see her anchor-chains. I could see her stern and the buoy. The

(Deposition of John W. McAllister.)

electric lights were [295—16] then shining on them.

Q. You did not see her anchor-chains at all?

A. No, sir, I could not because the "Helene" was in my way.

Redirect Examination.

Mr. PAGE.—Q. At the time that you came up to the "Celtic Chief" on the morning of December 6th, in what condition was the ship on the shore with reference to having her sails furled or sails up?

A. All sails were set; all square sails were set.

Q. At that time, and with the conditions as they were when you got there, what effect would having her sails set have on the ship with reference to getting off or going on? A. Going on.

Q. She would go on further? A. Yes, sir.

Q. How broad about is that shore or reef on which the vessel was? Did it go a long distance into the water, or did it come up steep?

A. No, sir, shallow.

Q. That is, it extended some distance right into the water?

A. It extended some distance right into the beach.

Q. Have you any idea whether the "Celtic Chief" was a short distance on the bottom, or any large part of her was on the bottom?

A. According to my estimation she was on all over.

Q. What do you base your idea on?

A. Because it was a shallow bottom and she certainly must have been all over.

Q. That is, resting on her entire keel?

(Deposition of John W. McAllister.)

A. Resting on the whole extent of her keel.
[296—17]

Recross-examination.

Mr. DERBY.—Q. According to your idea she was pretty hard aground?

A. Yes, sir, she was aground all of her.

Q. Pretty hard aground according to your idea?

A. Yes, sir.

Q. Her stern was aground as well as the bow?

A. As well as the bow.

Q. When were the sails taken down?

A. Immediately after I put my hawser aboard. I ordered the sails taken down myself.

Q. What right had you to order the sails taken down?

A. I had taken my line aboard of the ship, and I told them to take the sails in, the pilot and everyone else. They looked aloft and realized the sails were set and took them in immediately.

Q. You mean to say they did not know the sails were set.

A. They might have been thinking about something else and forgot.

Q. What time did the "Celtic Chief" go ashore, do you know?

A. I do not know. I ordered the sails taken in myself.

Q. After the "Celtic Chief" went aground did she go ashore any further?

A. I don't know, I was not there. As far as I learned she went ashore sometime about 8 or 9 o'clock

(Deposition of John W. McAllister.)

in the evening, and it was 7 o'clock the next morning when I took hold of her. During that time I don't know nothing.

Q. How was the water when you arrived—high or low?

A. I think it was about half tide, if I am not mistaken. I could not exactly say at the present time. There is very little difference in the tides there anyway, only about 18 inches; from 18 inches to 2 feet.

[297—18]

[Title of Court and Cause—Nos. 115, 116, 117.]

BE IT REMEMBERED that, pursuant to the stipulation and order hereunto annexed, at the office of Messrs. Page, McCutchen, Knight & Olney, in the Merchants' Exchange Building, in the City and County of San Francisco, State of California, personally appeared before me, FRANCIS KRULL, a United States Commissioner for the Northern District of California, to take acknowledgments of bail and affidavits, etc., MAURICE BARRETT, a witness produced on behalf of the libelant, Matson Navigation Company.

CHARLES PAGE, Esq., of the firm of Messrs. Page, McCutchen, Knight & Olney, appeared as proctor for the libelant, and S. H. DERBY, Esq., of the firm of Messrs. McCLANAHAN & DERBY, appeared as proctor for the respondent; and the said witness, having been by me first duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the cause aforesaid, did there-

upon depose and say as is hereinafter set forth.

(It is hereby stipulated that all objections as to the form of the questions are waived unless objected to at the time of taking said deposition, and that all objections as to materiality and competency of the testimony are reserved to all parties.

It is further stipulated that the reading over of the testimony to the witness and the signing thereof is hereby expressly waived.) [307]

[**Deposition of Maurice Barrett, for Libelant.**]

MAURICE BARRETT, called for the libelant, Matson Navigation Company, sworn.

Mr. PAGE.—Q. What is your name?

A. Maurice Barrett.

Q. Your age? A. 29 years.

Q. Your residence?

A. 768 Lydia Street, Oakland.

Q. And your occupation? A. Marine engineer.

Q. What was your occupation in December, 1909?

A. Chief engineer of the tug "Intrepid."

Q. Where was the tug "Intrepid" at that time?

A. Stationed at Honolulu, Territory of Hawaii.

Q. Do you remember leaving the port of Honolulu as chief engineer of the "Intrepid" on the morning of December 6th, 1909? A. I do.

Q. What did you start for? A. A ship outside.

Q. When you got outside did you find the ship?

A. We found the ship ashore.

Q. Do you know the name of the place at which she was ashore?

(Deposition of Maurice Barrett.)

A. Well, it is called Quarantine Island, right off the Quarantine Station.

Q. Was the ship making any signals of any kind?

A. Not when we got out there in the morning.

Q. What did you do after you saw her?

A. We got as close as we could, and the skipper talked to the captain of the sailing ship and asked him if he wanted a line.

Q. When you got up near or in the neighborhood of the ship, what did you do for the purpose of ascertaining what the conditions were under which you could tow?

A. The skipper had the mate sound, sound the water.

Q. What did you find?

A. It was shallow water for a big boat. [308—3]

Q. Pretty shallow for a boat of your kind?

A. Well, it was pretty shallow for our boat, and we only drew 12 feet; we had to be careful how we got around there.

Q. Did you hear anything that passed between the captain and your captain? A. Yes.

Q. What was it?

A. Our skipper asked if he wanted a line and he said yes.

Q. Did he hand it to you, did he give you a line?

A. So we tried to back in as far as we could to get a line on the bow, but we could not, so we took a stern line—we could not get in close enough, because our ship bounced on the rocks.

Q. What do you mean by bounced on the rocks?

(Deposition of Maurice Barrett.)

A. The stern of the boat—we backed in you see and the stern and the rudder hit on the coral, so we could not get close enough in to get a bowline on, so we took a stern line—

Q. How did you get the line aboard the “Celtic Chief”— A. We threw it.

Q. By the way, did you find out what the name of the ship was? A. Yes, the “Celtic Chief.”

Q. Now, you say you threw the line aboard.

A. One of the sailors threw the line aboard.

Q. From the stern of your boat?

A. To the stern of the “Celtic Chief.”

Q. To the stern of the “Celtic Chief.” A. Yes.

Q. She was lying bow on or stern out, the “Celtic Chief”? A. Bow on the rocks.

Q. Bow on the rocks.

A. And the stern out to the ocean.

Q. Then I suppose you passed a heavier line by that first line. A. We passed a 13-inch line on.

Q. How long a line did you put out before you began to tow? [309—4]

Q. We had 120 fathoms out at last.

Q. Did you tow her off at once? A. No, sir.

Q. How long were you towing on her?

A. We were towing 54 or 55 hours; we were in there two or three days.

Q. Steady? A. Steady, yes, night and day.

Q. How much of your boat’s power did you put on in the towing?

A. All of it; every high tide we put on passovers.

Q. What is that?

(Deposition of Maurice Barrett.)

A. Live steam with low-pressure engine. That is what they call a passover. It increases the horse-power of the engine.

Q. That was at low tide?

A. High tide; tiptop high water.

Q. Were you pulling at low tide too?

A. Pulling at low tide, yes.

Q. To what extent, what power?

A. Just common full speed ahead.

Q. What danger, if any, was there in the use of these passovers in order to increase the power of your engine?

A. Well, if you would increase the passovers too much you are liable to crack the cylinder-head on the engine, and disable her that way.

Q. Now, on the day that you began towing, what other vessels, if any, came out to take part in the salvage operations?

A. Well, there was at least two Inter-Island boats came out there, the "Mauna Kea"—and I don't know what the other one was. There were so many I could not exactly tell the name of the other one. There was two of them anyhow.

Q. What did they do?

A. They put a wire hawser aboard too.

Q. They made fast? A. Yes, sir.

Q. What is the greatest number of boats that were pulling at the [310—5] same time?

A. There was five, at the most.

Q. Five at the most? A. Yes.

Q. At any time before the vessel came off was any-

(Deposition of Maurice Barrett.)

thing done by which your vessel ceased to pull?

A. Yes. The skipper of the "Celtic Chief" wanted us to let go our hawser, and we would not let go. So he told us three times, and we kept pulling on the rope so that he could not lift it off with all the men he had on board, so he took a blocking chisel and a hammer and chopped the line and wire hawser.

Q. Had he told you why he wanted you to let go?

A. He told us he wanted us to let go to get the German cruiser a place to get hold.

Q. After that what did you do?

A. We went and got oil and went into the dock. We stayed around a little while, but there was no use, so we went into the dock.

Q. That is you stayed around the "Celtic Chief" a little while?

A. Stayed out in deep water; she was floated, and then we went into the dock.

Q. I mean immediately after your line was cut, did you go back to Honolulu, or did you stay there?

A. We went out into deep water right off the ship because she started to go in a couple of hours from then—we stayed out in deep water so we would not be in the way and then we took in our line and we went to the dock.

Q. After she was free?

A. After she was afloat, yes.

Q. What condition was the "Celtic Chief" in with regard to being in danger, in your judgment, as she lay with her bow on the rocks and her stern out?

(Deposition of Maurice Barrett.)

A. Well, she was in a very precarious condition because, as a [311—6] rule there is a high surf rolling there; if there had been a surf rolling the two or three days she laid there it would have broken her up, and she would have been scattered all over.

Q. As a matter of fact, it turned out to be calm?

A. It happened to be calm for the three days, or until she was floated.

Q. Had your pulling, in your judgment, anything to do with keeping her in position, one side or the other?

Mr. DERBY.—I suppose objections will be reserved.

Mr. PAGE.—Yes.

Q. So that on one side or the other she would not turn toward the reef?

A. If she had not had a tugboat on her, she would have swung around with the tide and went on sideways, and been broke up, if there had not been a tugboat on, because the stern of the boat was afloat and the bow was stuck; the front of it was stuck, she was stuck about 15 or 25 feet back; if there had not been anybody on it the seas and everything would have thrown her around broadside to and broken her all up; the towboat served to keep her stern right out to the sea; she would have listed in no time if there had not been a towboat holding on to her.

Cross-examination.

Mr. DERBY.—Q. How long had you been with the "Intrepid"? A. 15 months.

Q. In Honolulu? A. Yes, sir.

(Deposition of Maurice Barrett.)

Q. How long were you on her after this salvage operation? A. Five months; I left her in June.

Q. How did you happen to leave her?

A. Came off on a vacation.

Q. Were you going back to her?

A. No. I like it up here too well. [312-7]

Q. Who was the captain of the "Intrepid"?

A. At the time of the wreck?

Q. Yes. A. Mr. McAllister.

Q. Do you know how long he stayed there afterwards?

A. He stayed there a couple of months after I left. He was mate before the skipper took a trip to the coast; he was then acting captain, when this here ship was ashore.

Q. Do you know why he left her?

A. He had a skipper's job on a sailing ship, and took the sailing ship to San Pedro.

Q. On what part of the "Intrepid" were you during the salvage operations? A. The engine-room.

Q. All the time? You were attending to the engines principally? A. Yes, sir.

Q. How did you happen to hear what passed between your captain and the captain of the "Celtic Chief"?

A. Over the engine is a skylight, a ship's skylight, and it always is up, and the captain at any time when he is pulling anything from astern, he stands right over you; the mate is in the wheelhouse,—he is always looking astern, he is always in the stern of the boat to see how a boat is and everything.

(Deposition of Maurice Barrett.)

Q. Could you hear through the skylight what the captain of the "Celtic Chief" said? A. Yes, sir.

Q. Did the captain of the "Intrepid" make any offer, make any statement as to the price he would take to pull the "Celtic Chief" off?

A. No. I never heard him say anything about any offers.

Q. How long did this conversation last that you have testified to when you first got out there? [313—8]

A. It was about two minutes before they put a line aboard; they were chewing the rag there a couple of minutes; then they got up close as they could and threw a hawser to her.

Q. What were they chewing the rag about?

A. Asking him if he wanted a hawser, and he said yes, so we put a hawser aboard.

Q. Was that all there was to that conversation?

A. That is all I could hear. I got the bells to back and fill on the engine, and then I let go of the conversation, because when we first started to talk the engine was still, and when they got started to back they went to using the engine to get close so as to get hooked on and I paid no more attention to it.

Q. There was a good deal of the conversation that you did not hear? A. Yes.

Q. How do you know about these soundings taken by the mate? A. I could see them.

Q. See them from the engine-room?

A. I was at the door. You could take two steps

(Deposition of Maurice Barrett.)

and be on deck. Where you handle the engines is right flush with the deck; if you take two steps you can look out through the door.

Q. You went up on deck and saw this?

A. I was on a place flush with the deck. The engine-room of the towboat is always flush with the deck, so the engineer can see where the boat is going. You can always take two steps on any towboat and notice any object or see where the boat is, so I took a step out there and I saw him heaving the lead.

Q. How deep did you say the water was?

A. I do not know anything about the water; it was pretty shallow for us; we only drew 12 feet.

Q. Do you know how much the "Celtic Chief" drew? [314—9]

A. No, I could not tell you.

Q. But you could not get up and get your bowline aboard?

A. No. She was too shallow, she was ashore high and dry; we got up there and the rudder got striking on the bottom, so we came away.

Q. Why did you try to get the bowline on first?

A. We could do more pulling; the best place to haul a boat is on the bow.

Q. How do you know your line was a 13-inch line?

A. The skipper said so. That is that big around; you take it by the circumference; it is as big as that. (Illustrating.)

Q. You know it because the skipper says so.

A. Because everybody says so; it is a 13-inch hawser; it was sold for a 13-inch hawser. I don't

(Deposition of Maurice Barrett.)

know whether it was 13 inches in circumference—it is a 13-inch line, sold for a 13-inch hawser, and the cable on the end of it is $1\frac{1}{8}$ inches, with a wire pennant on the end, when it was cut on that occasion.

Q. How do you know that?

A. Because I measured that myself, because we bought it.

Q. You say you were towing steadily all the time at full speed? A. Yes, sir.

Q. During the whole three days you were out there? A. Yes, sir.

Q. What revolutions were your engines making?

A. 74.

Q. What is the most they can make?

A. 82, running light.

Q. What is the horse-power of the "Intrepid"?

A. 325.

Q. Were you noticing the hawser all the time to see whether it was slack or taut?

A. We have got two windows back of the engine-room where you could see the tows all the time.

Q. You were watching it all the time?

A. Yes, sir. [315—10]

Q. Are you sure that that hawser did not get slack at all? A. It was not slack at any time.

Q. Didn't it ever hang in a bight in the water?

A. No, it did not.

Q. Did you ever test it by putting your foot on it?

A. How could I?

Q. You cannot test a hawser by putting a foot on it?

(Deposition of Maurice Barrett.)

A. A 13-inch hawser—you never could put a nick in it if ten fellows jumped on it.

Q. Were any of your cylinders in fact cracked?

A. No, sir.

Q. Your boat was not damaged at all?

A. No, sir.

Q. The weather was perfectly calm all the time?

A. The weather was not calm, but it was not rough; fair weather.

Q. It was mild weather for that time of year?

A. Moderate weather; yes.

Q. How long did the "Mauna Kea" stay at the scene of the salvage operations?

A. I could not say the number of hours; but she was not there more than 18 or 20 hours, because she had to sail the following day; she was around there for a while and then left.

Q. She sailed on her schedule time the following day; on her regular trip?

A. On her regular trip to Hilo.

Q. When she left what other boats were there?

A. There was us and there was two more boats came out there. I don't know what the names of them were, but there was two more of those Island boats came out there.

Q. Was that after the "Mauna Kea" had left?

A. Yes, sir.

Q. There was no more there before she left?

A. Well, there was three boats—four boats there altogether when she left; there were two Inter-Island boats besides herself there at this time. [316—11]

(Deposition of Maurice Barrett.)

Q. Did you hear the conversation about the letting go of your hawser?

A. No. The skipper told me about it—asked me what I would do about it.

Q. You knew that they wanted her to let go so that the "Arconia" could take her place? A. Yes, sir.

Q. The "Arconia" was a much larger boat than yours, was she not? A. Yes, sir.

Q. After your hawser was cut you say you stayed around there till the ship was afloat?

A. We drifted out into deep water, and pulled in our hawser and stayed awhile.

Q. Didn't you go to Honolulu at all?

A. Yes, that is where we lived, in Honolulu.

Q. I mean while you were waiting around there and before the ship was salved?

A. Yes, we went to Honolulu.

Q. This stranding was right in Honolulu harbor, was it not? A. No, it is outside the harbor.

Q. Well, it is right at the entrance of the harbor?

A. At the entrance of the harbor, yes. The harbor isn't as big as a minute. This was outside, an eighth of a mile from there; there is two miles of water.

Q. You had no anchors down, did you?

A. No, at no time. There is no good at all of an anchor there.

Q. Could not the "Celtic Chief" hold herself in position by putting down anchors? A. No.

Q. Why not?

(Deposition of Maurice Barrett.)

A. Could not get them out far enough; could not carry them—had no boats that would carry out an anchor to hold a big ship like that.

Q. But the power your boat could put on you think would be [317—12] sufficient to hold her without anything else on at all?

A. Hold her stern on to the sea; yes.

Redirect Examination.

Mr. PAGE.—Q. You begin towing Monday morning about a quarter past 7, did you not?

A. Yes, sir.

Q. And at the time your line was cut by the captain of the "Celtic Chief" it was Wednesday?

A. Yes, sir.

Q. And about what time of day?

A. I think it was after dinner, after 12 o'clock; some time in the afternoon; early afternoon.

Q. Was that December 8th? Can you look at this paper and see if this is your own handwriting, your own log, and state when the time was exactly that the "Celtic Chief" cut your line? A. 12:30 P. M.

Q. 12:30 P. M. on December 7th?

A. Yes. In the afternoon right after dinner; you could see them all up there talking around, three or four officers; and they had a member of the crew up there chopping her.

Recross-examination.

Mr. DERBY.—Q. Where were you when the line was cut?

A. In the engine-room, looking through the windows.

(Deposition of Maurice Barrett.)

Q. Was it not pretty necessary about that time for you to be attending to your engines?

A. There were two windows in the engine-room that you can see right through when you are standing at the throttle; you can see right astern and you can see everything that is behind you; nothing in front of you.

Q. You were running the engines and watching the operations too?

A. I was standing there and looking at the men on the "Celtic Chief" chopping the wire.

Q. How do you know there were so many men chopping? [318—13]

A. You could see them all; you could see eight or nine men.

Q. You think they were all chopping?

A. No; only one man was chopping.

Q. They were just standing around looking at it?

A. Standing around amidst the officers; one man was holding a chisel. Eight or nine men could not chop one wire at once. [319—14]

[Title of Court and Cause—No. 116.]

**Depositions of Capt. Henry, J. J. Lowry, J. L. Brisco,
M. Sorensen, A. Gordon, in Evidence. [334]**

[Title of Court and Cause—Nos. 115, 116, 117.]

Thursday, January 27th, 1910 (2 P. M.)

BE IT REMEMBERED that on the 27th day of January, A. D. 1910, appeared the above-named

claimant by his proctors Messrs. [336—1] Holmes, Stanley & Olson, the above-named Miller Salvage Company, Limited, one of the above-named libellants, by its proctors, Messrs. Magoon & Weaver, and the above-named Inter-Island Steam Navigation Company, Limited, and Matson Navigation Company, the other libellants above named, by their proctors, Messrs. Smith & Lewis, at the office of the Clerk of the District Court of the United States for the Territory of Hawaii, before Harold G. Spencer, a United States Commissioner, for the purpose of taking the testimony of witnesses, in accordance with the notice of taking depositions *de bene esse* served by the said claimant on the said proctors for the said libellants, on the 26th day of January, A. D. 1910, which said notice of taking depositions is on file in the office of the Clerk of said court.

IT IS HEREBY STIPULATED AND AGREED by and between the said proctors that the taking of the said depositions be adjourned to the courtroom of the said court adjoining the said Clerk's office, immediately.

(Sgd.) MAGOON & WEAVER,
Proctors for Libellant Miller Salvage Company,
Limited.

(Sgd.) SMITH & LEWIS,
Proctors for Libellants Inter-Island Steam Navigation Co., Ltd., and Matson Navigation Company.

(Sgd.) HOLMES, STANLEY & OLSON,
Proctors for Claimant. [337—2]

Courtroom of the United States District Court.
By Mr. LEWIS.—How about this proposition of

objections, Mr. Magoon, Mr. Weaver and Mr. Olson? This signing of this stipulation, the stipulation goes with it of the offering of the evidence by any party to the Court, or rather may be used by any party.

(R. A. Kearns here sworn as official stenographer.)

By Mr. OLSON.—I first wish to file a stipulation signed by the proctors on behalf of all parties, providing for the taking of the testimony of the witnesses, whose testimony is to be taken under the notice heretofore given, by R. A. Kearns and by said R. A. Kearns to be transcribed and reduced to type-writing and certified by him to be a true transcript, and filed with the said Commissioner and by him to be filed in the court without being read over to the witnesses or without the necessity of their signing the same.

IT IS HEREBY STIPULATED AND AGREED that the testimony taken by deposition, pursuant to the notice given, may be offered or used by any of the parties above named.

IT IS HEREBY FURTHER STIPULATED AND AGREED by and between the above-named parties that objections to questions shall be noted as the questions are asked during the course of the taking of the testimony, and that motions to strike testimony shall be made during the course of the proceedings before the Commissioner under the notice under which these depositions are taken.

(Sgd.) MAGOON & WEAVER.

(Sgd.) HOLMES, STANLEY & OLSON.

(Sgd.) SMITH & LEWIS. [338—3]

[Deposition of John Henry, for Libelee.]

JOHN HENRY, master of the ship "Celtic Chief," called, sworn.

(By Mr. OLSON.)

Q. What is your name? A. John Henry.

Q. What is your occupation?

A. Master mariner.

Q. How are you employed at present?

A. I am employed as master of the "Celtic Chief."

Q. What nationality is the vessel named the "Celtic Chief"? A. English.

(By Mr. MAGOON.)

Q. British? A. Yes.

(By Mr. OLSON.)

Q. Was that your occupation from December 5th, 1909, on and until the present day? A. Yes.

Q. Where was the "Celtic Chief" on December 6th of 1909?

A. She was on the reef outside the harbor.

Q. What harbor? A. Honolulu harbor.

Q. When did she go on the reef?

A. On the 6th day of December.

Q. 1909? A. Yes.

Q. At what time? A. 2:30 A. M.

Q. What day of the week was that?

A. Monday morning. [339—4]

Q. On which side of the harbor of Honolulu?

A. The west side of the harbor.

Q. About how far from the entrance?

A. About half a mile.

Q. Did you receive any assistance?

(Deposition of John Henry.)

A. Yes, I did.

Q. When was the first assistance offered you?

A. About half-past six on Monday morning.

Q. By whom?

A. By the Young Brothers launch "Huki-huki."

Q. Was there any other assistance offered to you thereafter? A. Not until later on in the day.

Q. At what time in the day?

A. About half-past seven A. M.

Q. Who offered you assistance at that time?

A. The tug "Intrepid."

Q. State how that assistance was offered to you.

A. When he first came out he sung out if we wanted any assistance.

Q. Who sang out that?

A. I took it for the captain of the ship.

Q. What did you reply?

A. I asked him if he would give us an offer to tow us off.

Q. What did he say?

A. He said he would tow us off for twenty thousand dollars.

Q. What did you reply?

A. I said, "No," I could not think of it. [340—5]

Q. What did he say then?

A. A little later on he came down; I again asked him if he would not come down any in the price and he told me then he would do it for ten thousand dollars.

Q. What did you say to that?

A. I would not take him at that price.

(Deposition of John Henry.)

Q. What, if any, arrangement was made then?

A. After I would not take him at that price he said he would leave it and we would settle it ashore.

Q. What did you say?

A. I agreed to that. And then his line was passed aboard the ship.

Q. Who passed his line aboard the ship?

A. The captain of the "Intrepid."

Q. What kind of a line was that?

A. A small wire with an eye in it; a manila hawser with a small wire spliced in the end.

Q. What kind of a manila hawser as to size was it?

A. It was either an eight inch or ten inch hawser; I cannot tell which.

Q. What was done with that line?

A. It was taken on board the ship and the wire was put over the bitts; the wire with an eye spliced in it was put over the top of the bitts.

Q. At what point of the vessel was the line attached to the "Celtic Chief"—the port quarter or the starboard quarter?

A. The starboard quarter.

Q. At an angle or directly astern?

A. Directly astern.

Q. What assistance other than that offered by Young [341—6] Brothers and by the "Intrepid" was offered to you thereafter, if any?

A. There was the "Makahala" and "Mauna Kea" after that.

Q. When did they offer assistance to you?

A. About half-past nine or ten o'clock on Monday morning.

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(Deposition of John Henry.)

Q. State how that assistance was offered.

A. They came out and wanted to know if I required any assistance and I told them yes, and the lines were passed aboard the ship after that.

Q. Where was the "Mauna Kea's" line attached to the "Celtic Chief"?

A. The "Mauna Kea's" line was passed through the port quarter wharfing chock and around the mizzenmast.

Q. What kind of a line?

A. A twelve-inch manila.

Q. What about the "Makahala"?

A. She was fast through the starboard quarter pipe and fast on to bitts on deck, on the main deck.

Q. What kind of a line?

A. An eight-inch manila, I believe.

Q. How long did the "Mauna Kea" continue to have her line attached to the "Celtic Chief"?

A. Until Tuesday morning about eight o'clock.

Q. What happened then?

A. Then she went away and the "Helene" relieved her.

Q. How did the "Helene" relieve the "Mauna Kea"?

A. Passed a line aboard from the "Mauna Kea" to the "Helene."

Q. The same line? A. Yes. [342—7]

Q. What was the next change?

A. There was the Miller Salvage Company.

Q. What did the Miller Salvage Company do?

A. Captain Miller. (Question withdrawn.)

(Deposition of John Henry.)

Q. What was the next change in vessels towing on the "Celtic Chief," if any, after the "Mauna Kea" left?

A. The "Likelihi" was the next change.

Q. What did she do?

A. She made fast on Wednesday morning about eleven o'clock.

Q. Where did she make fast?

A. On the port quarter pipe to the main deck bitts.

Q. What kind of a line?

A. An eight-inch manila, I think.

Q. How long did the "Intrepid" continue to have her line attached to the "Celtic Chief"?

A. Until nearly twelve o'clock on Wednesday.

Q. What happened then?

A. I had to cut his line.

Q. Why did you have to cut his line?

A. Well, I had an offer of a much larger and powerful boat.

Q. What boat? A. The "Arcona."

Q. What is the "Arcona"?

A. A German cruiser.

Q. Where was the German cruiser at that time?

A. She was astern of my vessel coming out to give me assistance.

Q. From the harbor of Honolulu?

A. Yes, from the harbor of Honolulu. [343—8]

Q. Why was it necessary to cut the line of the "Intrepid" in order to get the services of the German cruiser?

By Mr. LEWIS.—Objection, on the ground that it

(Deposition of John Henry.)

is incompetent, irrelevant and immaterial, no proper foundation having been laid.

A. (By WITNESS.) Well, the cruiser was a much more powerful boat, and his assistance—at least I procured his assistance before that.

(By Mr. OLSON.)

Q. I will ask you again, why did you cut the line of the "Intrepid"?

A. Because the captain would not let go his line.

Q. The captain of which boat?

A. Of the "Intrepid."

Q. Why did you want him to let go the line?

A. To get this German cruiser into position to tow my ship off.

Q. Explain why it was that it was necessary to have the "Intrepid" let go her line in order that the cruiser might tow on the "Celtic Chief."

A. Because I could not get her into position with the "Intrepid" in the position she was in at that time.

Q. Why was it necessary to have the cruiser in the position of the "Intrepid"?

By Mr. LEWIS.—Objection, on the ground that the question has been asked and answered.

A. (By WITNESS.) Because I could not get any other position for the German cruiser. [344—9]

(By Mr. OLSON.)

Q. State the conditions upon which the German cruiser was willing to give assistance to you.

By Mr. LEWIS.—Objection, on the ground that it is incompetent, irrelevant and immaterial.

A. (By WITNESS.) He was willing to give as-

(Deposition of John Henry.)

sistance on the condition that I would get the "Intrepid" out of that. He was willing to give me the power of his boat under the condition that I would get the "Intrepid" out of that.

(By Mr. OLSON.)

Q. Was that the reason why you wanted the "Intrepid" out of the way? A. Yes.

Q. I will ask you how you know that the captain of the "Intrepid" would not give way his position.

A. Well, I sung out to him a good few times, both the Chief Officer and myself; I also sent him a letter.

Q. What did you sing out to him?

A. I asked him to slack up so I could throw off his line.

Q. What did he reply?

A. He replied no, that he would not; motioned with his hands that he would not let go.

Q. What else did you do?

A. I sent him a letter asking him if he would let go his lines.

Q. Have you got a copy of that letter?

A. No, I have not got it here. [345—10]

By Mr. LEWIS.—I offer to produce the original. Counsel for the Matson Navigation Company now makes offer to produce the original of that letter, the same being in the safe at his office.

By Mr. OLSON.—I now offer in evidence that letter, when produced, and ask that it be marked, when produced, "Claimant's Exhibit, Captain Henry, A."

Q. (To WITNESS.) What response did the Captain make to your letter?

(Deposition of John Henry.)

A. He made no response at all.

Q. Did you make any further approach to the captain in that regard?

A. Yes; I again sung out from the stern of my vessel to the tug and asked him if he was going to let go the line.

Q. What reply did the tug make?

A. He again made a motion with his hands and sang out "No," that he was not going to do it.

Q. What did you then do?

A. I sang out that I would cut his line if he did not slack up.

Q. Then what did you do?

A. Then he motioned with his hands again and said he was not going to let go, and shortly afterwards I cut his line.

Q. I will ask you what happened to the line when you cut it?

A. Well, we had to shove it out through the wharfing chock to get clear of it.

Q. It did not pull itself clear of the vessel of its own accord? A. No, it did not. [346—11]

By Mr. LEWIS.—Objection, on the ground that it is leading.

(Question and answer withdrawn.)

(By Mr. OLSON.)

Q. Why did you have to pull it off of the "Celtic Chief"?

A. We shoved it off, we did not pull it off.

Q. Why did you have to shove it off of the "Celtic Chief"? A. Because it would not go out.

(Deposition of John Henry.)

Q. I will ask you what strain there was on the line of the "Intrepid" at the time you cut it?

A. At the time we cut it there was very little strain on it.

Q. I will ask you whether or not you observed the line of the "Intrepid" from the time that it was placed aboard the "Celtic Chief" until it was cut by you, from time to time? A. Yes, I did.

Q. How much strain was there on that line while attached to the "Celtic Chief"?

A. There was not very much; not a great deal.

Q. How did you ascertain whether there was any strain on that line?

A. Well, I put my foot on it two or three times and it went right to the deck and there was very little strain on it.

Q. How high was the line from the deck?

A. I think it was about six inches; six or seven inches.

Q. What part of the line, the wire part or the manila hawser part? [347—12]

A. The wire part.

Q. When during the time that the "Intrepid's" line was attached to the "Celtic Chief" did that line have the greatest strain upon it, according to your observation?

A. Well, I could not say that; there was times when there was more strain on it than others; but I could not say when the greatest strain was on it.

Q. Take the line of the "Mauna Kea," did you observe that line during the time it was attached to

(Deposition of John Henry.)

the "Celtic Chief"? A. Yes, I did.

Q. State whether or not it had any strain upon it.

A. Yes, it had a good strain on it.

Q. Did you test that in the same way?

A. Yes, I tested it a few times.

Q. What about the strain upon the line of the "Makahala"?

A. Well, there was not a great deal of strain on it; it was in the water most of the time.

Q. State whether or not you tested it in the same way. A. Yes, I did.

Q. What was the result of such test?

A. Well, you could not put it down the same as you could the towboat's line, but you could get a bit of slack on it.

Q. How long was that line attached to the "Celtic Chief," the line of the "Makahala"?

A. About ten o'clock on Monday morning until the time the vessel came off.

Q. When did the vessel come off?

A. About twelve o'clock on Wednesday night.

Q. The libels of the various libellants state the time [348—13] that the "Celtic Chief" came off as twelve-twenty on the morning of Thursday, December 9th—what would you say as to the correctness of that?

A. She was afloat at twelve-twenty, but she was not off the reef at twelve o'clock.

Q. So that the statement, then, in your answer in which you deny that the vessel came off at twelve-twenty and your allegation that she came off at

(Deposition of John Henry.)

twelve o'clock is not exactly accurate?

A. No, it is not.

Q. Then approximately twelve-twenty on the morning of December 8th is about correct?

A. Yes, that is about correct as to the time she floated.

Q. December 9th? A. Yes, December 9th.

Q. What about the strain upon the line of the "Helene"?

A. There was a good bit of strain on it too; but at times there was not.

Q. Did you test that in the same way?

A. Yes, I did.

Q. What about the line of the "Likelike"?

A. There was not a great weight on it. It was in the water most of the time.

Q. Did you test that line in the same way?

A. Yes, but not so often.

Q. What was the result of those tests?

A. Well, any time I did try them there was not a great deal of strain on them.

Q. How could you tell that?

A. Well, if there was a good strain they would have been out of the water. [349—14]

Q. No, I asked of your test with the foot of the line of the "Likelike"?

A. If they had been towing I could not put that line down at all.

Q. Well, did you put it down? A. Yes.

Q. Was there any other vessels that had a line or lines aboard the "Celtic Chief"?

(Deposition of John Henry.)

A. No, none whatever.

Q. What about the German cruiser?

A. Yes, except the German cruiser.

Q. When did the German cruiser first come to the assistance of the "Celtic Chief"?

A. Twelve o'clock on Wednesday.

Q. What did she do?

A. She passed some small lines aboard to get a wire hawser.

Q. Whose wire hawser?

A. The ship's wire hawser.

Q. Yes, and then what?

A. After we got that aboard we got another small wire and rope out on to the starboard quarter of our ship. Our own wire was out from the port side and this wire and rope from the "Arcona," that was taken on the starboard side, and it was hove in and a good strain put on it to get the ship into position; and after he got it into position he started heaving on that ship's wire.

Q. Which ship's wire?

A. The "Celtic Chief's."

Q. What line was it that the cruiser put a strain upon? [350—15] A. On the ship's line.

Q. The "Celtic Chief's" line?

A. Yes, the "Celtic Chief's" wire hawser.

Q. Where was that wire hawser attached to the "Celtic Chief"?

A. Through the quarter-pipe and around the mizzenmast.

Q. What happened when she put a strain on that

(Deposition of John Henry.)

line? A. It carried away.

Q. Then what happened?

A. It was taken aboard the cruiser and spliced together again.

Q. Then what did the cruiser do?

A. It was brought back aboard the ship again, made fast, and there was another wire run out from the steamer which we took aboard our own ship and made fast around the mizzenmast.

Q. This other wire that you speak of, what kind of a wire was that? A. The cruiser's wire.

Q. It was the cruiser's wire, and what kind of a wire was it as to size?

A. It was a galvanized steel wire of four inches or four and a quarter inches.

Q. In circumference? A. Yes.

Q. What was the condition of the wire hawser belonging to the "Celtic Chief," which was used by the cruiser?

A. It was in good condition; it was a new hawser.

Q. What was the condition of the wire hawser belonging to the cruiser, which she used? [351—16]

A. It was in good condition as far as I could see.

Q. I will ask you to look at this piece of wire hawser which I now hand to you, and ask you if you recognize it. A. Yes, I do.

Q. What is it?

A. It is a piece of my wire hawser belonging to the ship.

Q. State whether or not that is a piece of the same wire hawser of the "Celtic Chief" which was used

(Deposition of John Henry.)

by the cruiser. A. Yes, it is the same wire.

Q. State whether or not the whole of that wire was the same as this sample.

A. Yes, the whole lot was the same.

By Mr. OLSON.—I offer this piece of wire in evidence and ask that it be marked "Claimant's Exhibit, Captain Henry, B."

Q. State whether or not the rest of the line was of the same size as this sample.

A. Yes, sir, the same size.

Q. What kind of wire is that?

A. Flexible steel wire.

Q. Where was it purchased? A. In England.

Q. What was the size of the cruiser's wire as used in towing of the "Celtic Chief," as compared with this size?

A. It was something similar to that, only I think it was a little larger, if anything.

Q. What time was it that these two wires, after the breaking of the ship's wire and the same having been spliced again, that both wires were placed aboard the "Celtic Chief" by the cruiser?

A. About five o'clock everything was made fast.

[352—17]

Q. Five o'clock on what day?

A. On Wednesday the 8th.

Q. Then what happened?

A. Kept on towing.

Q. State whether or not you observed whether there was any strain on that hawser.

(Deposition of John Henry.)

A. About six o'clock I saw they were getting a strain on them.

Q. How much of a strain did you observe upon these wires from that time on?

A. From that time on there was a good strain on them.

Q. Did you test them?

A. Well, I saw them about after eight o'clock; I saw them out of the water.

By Mr. LEWIS.—I move that the answer be stricken out as not responsive.

(By Mr. OLSON.)

Q. Did you test them?

A. No, I did not test them from the main deck.

Q. How could you tell whether or not there was any strain on them?

A. I could see the way they were out of the water.

Q. How were they out of the water?

A. Straight out of the water.

Q. When you say straight out of the water do you mean they were in a direct line from the ship to the cruiser? A. Yes.

Q. How long was that maintained?

A. Up to the time the vessel came off.

Q. Do you know the tensile strength of the wire of which [353—18] a sample has been placed in evidence? A. No, I do not.

Q. Do you know the tensile strength of the wire of the German cruiser? A. No, I do not.

Q. When did Captain Miller first come aboard the "Celtic Chief"?

(Deposition of John Henry.)

A. About eight o'clock on Monday morning.

Q. What did he do?

A. He asked me if I wanted any assistance.

Q. What did you say?

A. I asked him—he said he represented the Miller Salvage Company and that he had appliances for salving vessels here, and he pointed out to me that the best thing I could do was to lighten the ship.

Q. What did you say?

A. I agreed to it, that I ought to lighten the ship, and that it was the best thing I could do, and after a bit of consideration I agreed with him to get launches out and lighten the ship up.

Q. Was anything said as to terms?

A. Nothing said as to terms.

Q. What did he do?

A. After that he told me that if I had a large anchor we could get it out astern, and he said he had a large anchor, and I asked him how large this anchor was and he said it was a seven ton anchor, and he said if we could get it out he would bring it out and lay it out astern.

Q. What for?

A. To keep the vessel from going further on the reef. [354—19]

Q. Did he do that? A. Not at that time.

Q. When did he say to you that he would bring the anchor out? A. He did not state what time.

Q. Well, did he bring the anchor out, if at all?

A. He brought it out about nine o'clock on Tuesday night, and he wanted to run it out at that time

(Deposition of John Henry.)

but I would not have it.

Q. Why?

A. Because he was going to drop it on the quarter and would have taken the ship further on the reef, and I wanted the anchor right astern of the "Celtic Chief," not on the quarter at all. The anchor was run out the next morning about eight o'clock.

Q. When was the line from the anchor to the "Celtic Chief" made fast?

A. About two o'clock it was hauled tight and made fast.

Q. What date? A. On Wednesday afternoon.

Q. Where was it made fast on the "Celtic Chief"?

A. It was taken in with tackles, hove tight with tackles, large luff tackles, and these tackles were taken to the capstan on the forecastle head and the steam winch and hove as tight as they could be got.

Q. What kind of a line was that line?

A. It was a hawser.

Q. What kind of a hawser?

A. A manila hawser.

Q. How large? [355—20] A. Twelve inch.

Q. Did the whole of the line consist of a twelve-inch manila hawser?

A. I cannot say, but I believe there was a wire and chain attached to the anchor.

Q. Whose were the tackles that were used for the purpose of heaving in this line and making it taut?

A. Well, some belonged to the ship and some to the Miller Salvage Company, I believe.

Q. State whether or not those belonging to the

(Deposition of John Henry.)

ship were used in making the line taut and in maintaining such strain as was maintained on that line during the time that the anchor was attached to the vessel? A. Yes, I believe they were.

Q. Whose was the winch that was used in the same way? A. The ship's winch.

Q. Who ran that winch?

A. The carpenter of the ship and one of the boys.

Q. What is the name of the carpenter?

A. Sorensen.

Q. What is the name of the boy? A. Gordon.

Q. What is the rank of Gordon?

A. Senior apprentice.

Q. Who operated the hand capstan which was also used in heaving in on the tackles?

A. Captain Miller's men.

Q. Did you observe whether or not any strain was exercised upon that line?

A. On the line attached to the anchor? [356—21]

Q. Yes. A. Yes, there was a good strain on it.

Q. From what time?

A. From about four o'clock in the afternoon.

Q. Until when?

A. Until the ship came off or started to come off.

Q. I will ask you if you know how much strain in horse-power was exercised upon any of these lines?

By Mr. LEWIS.—OBJECTION, on the ground that it is indefinite.

By Mr. WEAVER.—FURTHER OBJECTION,

(Deposition of John Henry.)

on the ground that the witness has not been qualified as an expert.

By Mr. OLSON.—Well, I want to show that he does not know.

(OBJECTIONS withdrawn by counsel Lewis and Weaver.)

Q. Do you know that? A. No, I do not.

Q. In which direction from the "Celtic Chief" did the "Makahala" pull?

A. She was on the starboard quarter.

Q. Starboard quarter astern do you mean?

A. Certainly, yes.

Q. What was the position of the "Intrepid" while she had a line attached to the "Celtic Chief"?

A. Right astern.

Q. What was the position of the "Helene" while she had her line attached to the "Celtic Chief"?

A. The port quarter of the ship.

Q. What was the position occupied by the "Mauna Kea" while she had her line attached to the "Celtic Chief"? A. Port quarter. [357—22]

Q. What was the position occupied by the German cruiser while she had her lines attached to the "Celtic Chief"? A. Right astern.

Q. It is alleged in the libels of the Inter-Island Steam Navigation Company and the Matson Navigation Company that the vessels of those two companies kept the "Celtic Chief" from going further aground —what do you know about that?

A. Well, by the positions or lights ashore, and the bearings ashore, the vessel did not go further aground.

(Deposition of John Henry.)

Q. What is that?

A. By the bearings we had there on shore the vessel did not go further aground.

Q. What do you mean by "the vessel," the "Celtic Chief"? A. Yes, the "Celtic Chief."

Q. Do you know according to your own observation whether or not she did go further ashore?

A. I could not tell exactly whether she went any further in or not.

Q. What else did the Miller Salvage Company do besides assisting you with the anchor of which you have spoken? A. Lightened the cargo.

Q. When?

A. On Monday from about ten o'clock in the morning up till one o'clock on Tuesday morning. Between that time they were stopped for a time; they were not working constant all that time.

Q. How did they lighter cargo from the "Celtic Chief"?

A. They passed it by hand and threw it into the lighters.

Q. What lighters?

A. The lighters belonging to the Miller Salvage Company. [358—23]

Q. Do you know the names of those vessels?

A. The "Mokolii," "Concord," and "James Makee," all those three.

Q. Do you know which of those were used?

A. The three of them were used.

Q. How much cargo did the Miller Salvage Company lighter?

A. About two hundred and sixty tons.

(Deposition of John Henry.)

Q. What did they do with that cargo?

A. Landed it ashore.

Q. Why did they stop on Tuesday night?

A. They could not put any more in the "James Makee"; she was the only one alongside; the other two were loaded and they could not put any more in the "James Makee," and then he went away and he promised to lighter us the next morning but there was no more turned up at daylight.

Q. Was any lightering done by any other person or company?

A. Yes, the "Helene" and "Makahala," by their boats.

Q. When did they lighter?

A. About ten o'clock on Tuesday until the ship came off.

Q. Constantly? A. Not constantly, no.

Q. When were they not lightering from the times you have stated until the vessel came off?

A. Tuesday night they were not working all night.

Q. How much did they lighter?

A. About four hundred tons.

Q. What did they do with it?

A. Took it ashore and landed it on the wharf.

[359—24]

Q. What wharf? A. The Inter-Island wharf.

Q. How many tons of cargo did you have aboard the "Celtic Chief"?

A. Two thousand five hundred and fifty-seven tons, English tons.

Q. Of what?

A. Of fertilizer, spirits and marbles.

(Deposition of John Henry.)

Q. How many cases of marbles?

A. Five cases.

Q. How many tons of fertilizer?

A. Two thousand five hundred and forty-seven.

Q. And the balance of the cargo was spirits?

A. Yes.

Q. How did the Inter-Island vessels lighter cargo from the "Celtic Chief"?

A. From the "Celtic Chief" to the steamers with their own boats.

Q. How did they get it into their own boats?

A. By the cargo gear that was rigged aloft and the steam put on the ship's boiler and it was hove up by the steam and lowered into the boats and put aboard the steamers.

Q. That is, your own steam winch was used?

A. Yes, our own steam winch was used up to the time the vessel came off.

Q. It is alleged in the libel of the Inter-Island Steam Navigation Company that a donkey-hoist and barge were used by them in the course of the operations—state whether or not you know anything about that?

A. From four o'clock on Wednesday afternoon it was used. [360—25]

Q. Until she came off?

A. Yes, until she came off.

Q. How were they used—what for?

A. For heaving the cargo up.

Q. For the purpose of lightering?

A. Yes, for the purpose of lightering.

Q. How was the weather during the time that the

(Deposition of John Henry.)

“Celtic Chief” was on the reef?

A. The weather was fine the whole time.

Q. What was the condition of the sea about the “Celtic Chief”?

A. There was a little swell at times and then again it was quite smooth.

Q. State whether or not there was any danger to any one of the vessels or appliances used in the course of the salvage operations.

A. No danger at all.

Q. State whether or not there was any danger to any of the persons who were engaged in the salvage operations. A. None at all; no.

Q. State whether or not there was any danger to the appliances used by the Miller Salvage Company in lightering the cargo.

A. No, there was no danger.

Q. Was there any danger to any of the persons employed by the Miller Salvage Company in lightering cargo? A. No, none whatever.

Q. State whether or not there was any danger or risk to any of the appliances used by the Inter-Island Steam Navigation Company for lightering the cargo.

[361—26]

A. No, none whatever.

Q. State whether or not there was any danger or risk to any of the persons employed by the Inter-Island Steam Navigation Company in lightering cargo. A. No, none whatever.

Q. When did you first begin to notice any motion on the part of the “Celtic Chief,” after she went ashore? A. Any motion?

(Deposition of John Henry.)

Q. Yes.

A. The first motion we got would be after eleven o'clock on Wednesday night.

Q. What did you observe then?

A. The ship seemed to be freer and working more.

Q. Who besides your own officers and crew connected with the salvage operations were on board the "Celtic Chief" from eleven o'clock on Wednesday night until she came off, or about that time?

A. There was Captain Haglund, Captain Miller and the officers of the German cruiser.

Q. Which officers? A. The first officer.

Q. What about the captain?

A. The captain was aboard too at that time.

Q. What happened when you observed that the "Celtic Chief" was beginning to move, on Wednesday night about eleven o'clock?

A. What did I observe?

Q. Yes, what happened when you observed she was beginning to move?

A. Later on we saw that she was making way, working off the reef. [362—27]

Q. What did the officers of the German cruiser do?

A. They fired stars up in the air to let them know aboard the cruiser that she was moving.

Q. Did you observe the lines of the German cruiser from that time on? A. Yes, I did.

Q. What was their condition as to the strain?

A. They were tight, right out of the water at that time.

Q. Straight out of the water?

A. Yes, straight out of the water.

(Deposition of John Henry.)

Q. When did she come off?

A. About twelve o'clock.

Q. Might have been shortly after twelve?

A. Yes, I could not say for a few minutes.

Q. Who was pulling on the "Celtic Chief" at the time she began moving and until she came off?

A. There was the cruiser "Arcona" and Captain Miller taking in the slack of his line from the anchor and the three tugs from the Inter-Island.

Q. The three steamers, you mean?

A. Yes, three steamers rather.

Q. Did you observe the lines of the Inter-Island boats? A. No, I did not observe them at that time.

Q. What happened when she came off?

A. After the vessel was afloat?

Q. Yes.

A. The lines were cut away and the cruiser towed her out into deep water, towed the vessel out.

Q. And then what happened?

A. Then the "Likelike" took us to an anchorage after [363—28] the cruiser let go.

Q. How did the "Likelike" happen to take her to an anchorage after the cruiser let go?

A. I had arranged with Captain Haglund before that, that when the cruiser could not take her into the anchorage, I asked Captain Haglund if he would tow the vessel in.

Q. State whether or not the "Celtic Chief" was in a place of safety at the time the cruiser let go of her.

A. Yes, she was.

Q. What was the nature of the service performed by the "Likelike" in towing her to an anchorage?

(Deposition of John Henry.)

By Mr. LEWIS.—Objection, on the ground that it is incompetent, irrelevant and immaterial, and a question calling for a conclusion of the witness.

A. (By WITNESS.) The usual towage.

(By Mr. OLSON.)

Q. State whether or not there was any danger or risk to the "Celtic Chief" at the time she was aground other than that of simply being aground on the reef. A. No other danger; no.

By Mr. MAGOON.—Objection, on the ground that it is unintelligible, and calls for a conclusion of the witness and the answer could not benefit anyone in the case.

By Mr. LEWIS.—I object to it, on the ground that it is double; it is partially leading and otherwise incompetent, irrelevant and immaterial. I represent the Inter-Island Steam Navigation Company and the Matson Navigation Company, and I would like to [364—29] have it understood between counsel that when I take an objection it is on behalf of both the Inter-Island Steam Navigation Company and the Matson Navigation Company, and any motion I make it is on behalf of both people.

By Mr. MAGOON.—It is agreeable.

By Mr. OLSON.—All right.

By Mr. LEWIS.—In other words, that objections, exceptions and motions made by Mr. Lewis, counsel for both the Inter-Island Steam Navigation Company and the Matson Navigation Company apply for both libellants, the Inter-Island Steam Navigation Company and the Matson Navigation Company.

(Deposition of John Henry.)

By Mr. OLSON.—That is agreeable to counsel for claimant.

By Mr. MAGOON.—That is agreeable to the Miller Salvage Company.

(By Mr. OLSON—To Witness.)

Q. State whether or not there was any immediate danger to the “Celtic Chief” while she was lying aground on the reef.

By Mr. MAGOON.—OBJECTION, on the ground that it calls for a conclusion, and which is for the court to consider, and on the further ground that it is incompetent, irrelevant and immaterial.

By Mr. LEWIS.—OBJECTION, on the ground that no proper foundation has been made, and that it calls for a conclusion by the witness.

A. (By WITNESS.) No immediate danger, no.
(By Mr. OLSON.)

Q. State whether or not you know what the general condition of the reef was on which the “Celtic Chief” went aground at the place of stranding.

A. Soft coral and sand, I believe. [365—30]

By Mr. WEAVER.—I move that it be stricken out on the ground that it is hearsay.

By Mr. LEWIS.—I join in that motion.

By Mr. MAGOON.—And on the further ground that it is indefinite and does not state positively or give any information on which he makes the answer.
(By Mr. OLSON—To Witness.)

Q. While the “Celtic Chief” was ashore on the reef did she make any water?

A. No, none whatever.

Q. Was any injury done to the “Celtic Chief”

(Deposition of John Henry.)
while on the reef?

By Mr. LEWIS.—OBJECTION, on the ground that it is incompetent, irrelevant and immaterial, and not the best evidence, and no proper foundation laid for it.

By Mr. MAGOON.—OBJECTION, on the same ground.

(By Mr. OLSON—To Witness.)

Q. I will amend that question by adding—"To your knowledge"?

I renew my objection to the question as made.

A. (By WITNESS.) There was deck damage, that was all.

(By Mr. OLSON.)

Q. Deck damage consisting of what?

A. Consisting of the poop rails being broken away.

Q. How was that broken away?

A. By the "Mauna Kea's" towing line; also the wharfing chock. [366—31]

Q. How was that torn away?

A. By the "Mauna Kea's" line.

Q. What caused them to be torn away by the "Mauna Kea's" line?

A. A sudden jerk, I expect.

Q. What was the power that caused them to be broken away by the "Mauna Kea's" line—what vessel did it? A. Which vessel did it?

Q. Yes. A. The "Mauna Kea."

Q. Was there any other damage done?

A. Yes, the mast was damaged, the mizzenmast.

Q. How?

A. By the "Mauna Kea's" towing line.

(Deposition of John Henry.)

Q. Caused by what?

A. Caused by the "Mauna Kea."

Q. What was the nature of the "Mauna Kea's" line at the end which was attached around the mast?

A. The nature of it?

Q. Yes, what was it, wire or manila hawser?

A. Manila hawser.

Q. Was any other damage done?

A. Yes, the boat davits badly bent.

Q. How were they bent?

A. By one of Captain Miller's launches.

Q. Doing what? A. Getting alongside.

Q. For what purpose?

A. Lightering the cargo.

Q. And other damage? [367—32]

A. No damage; no.

Q. To your knowledge was there any damage done to the vessel by the contact of the vessel with the reef?

A. Slight damage.

Q. Where? A. On the bottom.

Q. What did that damage consist of?

A. A dented plate.

Q. Is that all? A. Yes, that is all.

Q. Was there any damage done to the cargo?

A. No damage done to the cargo; no.

Q. Was there any damage done to the cargo in lightering it? A. Yes, there was a little.

Q. What?

A. There was a loss of cargo as the bags were badly burst.

Q. State whether or not the "Celtic Chief" between the time that she went aground and the time

(Deposition of John Henry.)

that the German cruiser put her lines aboard was moved seaward. A. No, she was not.

Q. What is the name of your first officer?

A. John James Lowry.

Q. Your second mate? A. J. L. Brisco.

Q. Were they your first and second mate respectively during the time that the "Celtic Chief" was ashore on the reef?

A. Yes, they were. [368—33]

Q. What wind was blowing at the time the "Intrepid" first came to the assistance of the "Celtic Chief"? A. There was no wind.

Q. No wind? A. No; no wind.

Q. From that time on during Monday was there any wind? A. A light air now and then.

Q. How about Monday night?

A. Monday night there was no wind.

Q. Tuesday?

A. Tuesday there was a light air off the land in the afternoon, I think.

Q. Tuesday night?

A. No wind on Tuesday night.

Q. Wednesday?

A. Wednesday there was light airs.

Q. And Wednesday night?

A. Wednesday night there was very little wind; in fact, it was very fine weather all the time we were on.

Q. What was the condition of the wind from eleven o'clock on Wednesday night until the "Celtic Chief" came off the reef? A. Light southerly, I think.

Q. Was it blowing hard?

A. No, very light.

(Deposition of John Henry.)

Q. Could you be sure about that direction?

A. I would not be quite certain; no.

Q. What was the condition of the weather from the time the "Celtic Chief" came off until the next morning when she was towed to an anchorage? [369—34]

A. Fine weather.

Q. What time was it that the "Likelike" began to tow the "Celtic Chief" from the position of safety of which you have spoken to an anchorage?

A. Two o'clock.

By Mr. LEWIS.—I object, on the ground that it is incompetent, irrelevant and immaterial, and indefinite.

(QUESTION, ANSWER AND OBJECTION WITHDRAWN.)

(By Mr. OLSON—to Witness.)

Q. At what time on Thursday morning the 9th day of December, 1909 did the "Likelike" start to tow the "Celtic Chief" to an anchorage?

A. It was not the "Likelike," it was the "Maui."

Q. Well, the Inter-Island vessel that was moved?

A. Yes, nine o'clock.

Q. And at what time was she brought to an anchorage? A. Three o'clock on Thursday morning.

Q. Now what was the condition of the weather during that operation? A. The weather was fine.

Q. Was any damage done to any of the Miller Salvage Company vessels that you know of?

A. Not that I know of.

Q. Was any damage done to any of the Inter-Island Steam Navigation Company's vessels, that you know of? A. Not that I know of.

(Deposition of John Henry.)

Q. To the "Intrepid"?

A. Not that I am aware of.

Q. State during what period or periods of time while [370—35] the "Celtic Chief" was ashore did you sleep. A. I slept none at all.

Q. You slept none at all? A. No.

Q. You were awake from what time until the vessel came off?

A. Saturday morning before I entered the harbor.

Q. Until the "Celtic Chief" came off? A. Yes.

Q. Where were you during all that time?

A. On deck most of the time with occasionally down below for a few minutes.

Q. Were you ever off of the "Celtic Chief" during that time? A. No, I was not.

Q. Were any of your officers off of the "Celtic Chief" during that time? A. No.

Q. Or any members of your crew off of the ship during that time?

A. None of them at all were off the ship.

Q. How many members of your crew besides your officers did you have? A. Twenty-five all told.

Q. Including officers?

A. Yes, including officers.

Q. How many officers were there?

A. Two officers.

Q. Besides yourself? A. Yes, besides myself.

[371—36]

Q. And in addition to that a ship's carpenter?

A. Ship's carpenter and sailmaker.

Q. And how many apprentices?

A. Six apprentices.

(Deposition of John Henry.)

Q. Captain, when do you expect to sail from Honolulu? A. Within this next seven days.

Q. Bound for where? A. I cannot say.

Q. Leaving the territory?

A. Yes, leaving the territory.

Q. Where was all this cargo that the "Celtic Chief" had on board bound for?

A. For Honolulu.

Q. Has that been discharged?

A. Yes, it has all been discharged.

Q. Where is the "Celtic Chief" at the present time? A. Lying at the Hackfeld wharf.

Q. In the port of Honolulu?

A. Yes, the port of Honolulu.

Q. How long have you held a master mariner's papers?

A. Ten years, master mariner's papers.

Q. How long have you been master of the "Celtic Chief"? A. Two years in May.

By Mr. OLSON.—SUBJECT to the production and placing in evidence of the letter which has been referred to, and I now leave the witness to the cross-examination.

By Mr. LEWIS.—I wish the record to show that counsel for the libelants are agreeable to that letter being placed in evidence, subject [372—37] to any objection that may be made when produced.

By Mr. OLSON.—Counsel are agreeable to my offering that letter in evidence tomorrow?

By Mr. LEWIS.—As far as the Matson Navigation Company and the Inter-Island Company are concerned, I make no objection and will deliver the letter.

(Deposition of John Henry.)

(At 3:50 P. M. adjournment was taken until 9 o'clock to-morrow morning at the office of the Clerk of the United States District Court.)

Friday, January 28th, 1910 (9 A. M.)

The parties in the above-entitled case met, pursuant to adjournment, at the office of the Clerk of the District Court of the United States, and immediately adjourned to the courtroom of Judge De Bolt, where the following proceeding was had:

By Mr. LEWIS.—IT IS HEREBY STIPULATED AND AGREED that all objections and motions made by A. Lewis, counsel for the Matson Navigation Company and the Inter-Island Steam Navigation Company shall be for the benefit of both of said Libellants, and shall apply to all witnesses in this case.

By Mr. OLSON.—That is agreeable to me.

By Mr. WEAVER.—That is agreeable to us.

By Mr. LEWIS.—Pursuant to the request of counsel for claimant I now [373—38] produce the letter signed by Captain Henry of the "Celtic Chief" to Captain MacAlister of the tug "Intrepid," being Claimant's Captain Henry's Exhibit "A," heretofore referred to.

(By Mr. OLSON—to Witness.)

Q. I now show to you this document which has just been produced by counsel for the Matson Navigation Company, which is entitled "Captain Henry, 'Celtic Chief,' 8th December, 1909," and signed by yourself—I will ask you if you recognize that document? A. Yes, I do.

Q. What is it?

(Deposition of John Henry.)

A. It is the letter I sent aboard the tug "Intrepid," to the captain of the tug "Intrepid."

Q. That is, is it not, the letter to which you have already referred in your testimony yesterday?

A. Yes, that is the letter I referred to.

By Mr. OLSON.—I now offer that letter in evidence and in accordance with my offer of yesterday ask that it be marked Claimant's Exhibit, Captain Henry, "A."

Cross-examination by Mr. LEWIS.

Q. Your appearance off the harbor of Honolulu, say on or about the 5th day of December, 1909, was your first voyage to the Hawaiian Island, was it not?

A. Yes, it was.

Q. You were thoroughly unacquainted then with the conditions that existed about the port of Honolulu?

A. I was not unacquainted; I had my charts.

Q. But outside of your charts you had no acquaintance of [374—39] the port of Honolulu?

A. My book of directions.

Q. Your book of directions? A. Yes.

Q. But you have had no personal experience about the port of Honolulu? A. No.

Q. From your own personal knowledge?

A. No, not from my own personal knowledge.

Q. Referring now to the time, to that time of the salvage operations, about eleven, twelve and one o'clock, being the evening of December 8th and the morning of December 9th, when the "Celtic Chief" was pulled off the reef, I will ask you whether or not it was eleven o'clock when you first noticed motion,

(Deposition of John Henry.)

that is, peculiar motion.

A. No, it was after eleven o'clock.

Q. How much after eleven o'clock.

A. Well, I could not just exactly tell you.

Q. Well, approximately what was the time, was it about half-past eleven?

A. About twenty past eleven, I think.

Q. Twenty minutes past eleven?

A. About that time, I cannot say exactly.

Q. What were the indications of motion—how did this motion manifest itself, that is, was the boat working a little freer in her bed?

A. You could feel the ship moving.

Q. How long after that time was it that you could detect any particular movement seaward, and if you could not detect a movement seaward what were the indications that you noticed [375—40] which led you to believe that the boat was moving seaward?

A. By the bearings ashore I could see that the ship was moving.

Q. When did you first notice from your observations by bearings on the shore that the "Celtic Chief" was moving seaward?

A. Shortly before twelve o'clock.

Q. Approximately how much before twelve?

A. That is a very hard thing for me to say as I did not have a watch in my hand.

Q. Well, as near as I gather from your testimony it was very near twelve o'clock? A. Yes.

Q. From that time that you first noticed the movement seaward was the movement thereafter rapid or slow? A. Slowly.

(Deposition of John Henry.)

Q. Did you again take any bearings to ascertain how much she had moved seaward?

A. The two lights in one and I saw them separated from each other.

Q. When was that time that you noticed these lights separating—how much after the first time that you took your bearings?

A. About five or seven minutes.

Q. The "Celtic Chief" came off the reef very slowly, didn't she? A. Yes, she did.

Q. As I understood you in your direct testimony, you said that it was in the neighborhood of twenty minutes past twelve when you thought that she was afloat and off of the reef? [376—41]

A. Twenty minutes past twelve when the vessel was afloat.

Q. There were times, were there not, from the time that you first noticed this seaward movement until she finally came off when the ship remained absolutely stationary and did not move at all, is not that correct—in other words, she did not leave the reef all with one motion, that is, there was a starting and a stopping, and a start and a stop before she finally got off—that is correct?

A. I could not say as to that.

Q. Well, what is your impression from your experience there?

A. She moved, moved very gradually all the time and she must—it takes a good bit for a ship to move and to alter two lights and change their position.

Q. What arrangements, if any, did you have with the captain or the executive officer of the "Arcona"

(Deposition of John Henry.)

in regard to these rockets which were exhibited or shot off there on that evening, about the time when the boat came off?

A. I could not explain that now, I think they are written out in a book somewhere but I cannot remember that.

Q. Well, in a general way it was something like this, was it not, that at one period of the operation one rocket was to be shot off to designate that she was moving, and later on rockets were shot when they thought she was finally off, or something to that effect? A. Some arrangements like that.

Q. Something generally along that character?

A. Yes.

Q. In other words, the firing of the first rocket did [377—42] not mean that the vessel was off or clear of the reef and afloat?

A. No, I think the first one was that the ship was moving.

Q. You don't remember any signal being given for the boats, by rockets, to begin to pull or anything of that kind? A. Not by rockets; no.

Q. What time was it that the search-light from the "Arcona" was flashed upon the stern of the "Celtic Chief" that evening?

A. That I cannot say; I cannot say as to that.

Q. That search-light was played, was it not, at half-past eleven on that evening? A. Yes, it was.

Q. And played continuously thereafter until the ship came off, didn't it? A. Yes, it did.

Q. Probably playing before half-past eleven too, was it not?

(Deposition of John Henry.)

A. Yes, I believe it was. The time it started I could not say.

Q. You have said in your direct examination that certain persons were on the "Celtic Chief" at the time that she floated off, and I presume also that you include in that the period for an hour or so, or half an hour, before she came off—you stated that these persons were Captain Haglund, and Captain Miller, the captain and officers of the German cruiser "Arcona," I now ask you if, in addition to those persons which you have named, certain men employed by the Inter-Island Steam Navigation Company were not also there who had been working cargo. [378—43]

A. That is correct, yes.

Q. Do you know the names of the officers of the Inter-Island boats or steamers, outside of Captain Haglund, who were there?

A. No, I do not know anyone except Captain Haglund.

Q. He is the only one you know?

A. Yes, he is the only one I know.

Q. And as far as you know there were certain persons connected with the Inter-Island Steam Navigation Company who had to do with the lightering of the cargo on the "Celtic Chief" about that time?

A. Yes, about that time.

Q. You have stated that at the time the ship "Celtic Chief" came off Captain Miller or the Miller Salvage Company had attached to the "Celtic Chief" a hawser or line which was attached to an anchor which had been previously laid out—you said that there was a hawser attached and you thought that

(Deposition of John Henry.)

there was some wire and chain attached to the anchor—I now ask you to tell me by just what means this anchor of Captain Miller's was attached to the "Celtic Chief," as near as you can remember.

A. It was attached to large luff tackles.

Q. You say that it was attached by a hawser—now was there any other line outside of this hawser by which the anchor was attached to the ship—that is, leading from the anchor to the ship. In other words, I understand that the anchor was attached solely to the ship by a hawser—that is, the hawser led from the anchor and after it approached the ship it was attached to the ship by lines and tackles—that is correct, is it not? [379—44]

A. Yes, that is correct.

Q. Did you notice the size of that hawser?

A. I did, yes.

Q. What was it? A. A twelve-inch manila.

Q. And that was the situation which you have just described that existed between the anchor and the ship during all the times that anchor was in use on that occasion, simply one hawser?

A. One hawser from the anchor; yes.

Q. You said that there was a strain on that hawser from some time in the afternoon, late in the afternoon of the 8th of December until the ship came off, in your direct examination; did you take particular notice of that hawser and was that strain continuous?

A. From the time it was made fast, yes.

Q. You also said that during the evening and at the time that the ship was floated Captain Miller took in the slack from this hawser—I will ask you

(Deposition of John Henry.)

to explain just how that was done.

A. By heaving on the hand capstan on the fore-castle-head and also by the ship's steam winch.

Q. How often did they use the steam winch?

A. That I cannot say.

Q. You have testified in your direct examination that those about the ship, and the servants of the Inter-Island Steam Navigation Company were working cargo the afternoon of the 8th and up to and including the time that the ship came off—you have also stated that in performing that work, that the steam winch of the "Celtic Chief" was used?

[380—45] A. Yes, I did.

Q. You have only one steam winch on board?

A. I have only got one steam winch, yes.

Q. So that it was the same steam winch which was working cargo which was being transferred by the Inter-Island boats, which you also used in taking up the slack of Captain Miller's line?

A. That is right.

Q. Well, then, Captain, how much of the time would you say was used in transferring the cargo and how much of the time was the steam winch used in connection with the hawser of Captain Miller?

A. That I cannot say. I can work two falls from my winch, the one working cargo and the other heaving luff tackles tight. I can work cargo and heave tackles tight at the same time.

Q. You say that you can do it?

A. Yes, I can.

Q. Well, what I want to know is, did you do it on

(Deposition of John Henry.)

that evening? A. Yes, I believe I did.

Q. Were you heaving in on that hawser and also working cargo at the same time, from the same side?

A. Not from the same side, no. I have a drum end on each side of the house and I can work a rope from each drum.

Q. On what side of your winch—from what side of your winch were you working Captain Miller's tackles? A. From the starboard side.

Q. From which side were you working the winch to discharge the cargo? [381—46]

A. The port side.

Q. All the time during that afternoon and evening of the 8th and 9th?

A. Yes, the port side; we were working from the after hatch. We were working cargo from the after hatch and leading from the port side of the ship to the steam winch.

Q. During the afternoon and evening of the 8th and 9th a scow was anchored on the port side of the "Celtic Chief," was it not? A. Yes, it was.

Q. On that scow was a winch, was it not?

A. Yes, that is so.

Q. By means of that winch tackle had been prepared and lines so that you worked the after hatch of the "Celtic Chief" by means of the winch which was on the barge, is not that correct?

A. No, it is not.

Q. Well, which hatch did you work with the winch on the barge?

A. The main hatch; the donkey-barge was right

(Deposition of John Henry.)

abreast of the main hatch and the main hatch was worked.

Q. I am not an engineer and I would like to have you explain to me how you could use the same winch in working cargo and also at the same time, the very same time that you were working the cargo heave in or take in the slack on the hawser of Captain Miller.

A. Well, I am not an engineer myself, but still we can work two ropes from the winch and keep it going all the time, keep the winch going all the time.

Q. Well, there would be times in which you would be [382—47] working on the cargo and then working intermittently working on the winch as well which was attached to the hawser?

A. Well, they had that heaving up fall to the port side of the donkey winch and when the bags were high enough there was another man to take in the slack of another tackle, and the man at the steam winch only had to let go his fall and the winch would heave away at the same time. When he wanted to heave the bags out of the hold he would take a round turn around the barrel of the winch.

Q. Well, when the winch is revolving and the power is being applied to the winch, that is one motion, rapidly for a few minutes or seconds, then a stop and a jerk, a lowering, so that the power that is being applied on that winch is not constant when you are working cargo—that is correct, is it not?

By Mr. OLSON.—OBJECTION to the question, on the ground that it is unintelligible. (QUESTION WITHDRAWN.)

(Deposition of John Henry.)

(By Mr. LEWIS.)

A. When you are working cargo the speed of the winch at all times during the period of taking the bags from the hold and landing it out into the boat is not exactly the same, is it?

A. If you like to put enough steam on, yes; if you put plenty of steam on it will be the same.

Q. Well, the fall is attached to the bag in the hold, is it not, from which you lighter your cargo?

A. Yes.

Q. The power is applied to that fall and the cargo was dragged to a certain height above the deck of the steamer? [383—48]

A. Yes, quite so.

Q. Then you stop your winch?

A. No, I do not.

Q. It is going continuously all the time?

A. Yes, going continuously all the time.

Q. The same speed?

A. I don't know exactly about the same speed; I cannot say as to that.

Q. Well, if you start working cargo at, we will say, eleven o'clock up to twelve o'clock, then from what you say I understand that your steam winch is running with the same amount of power and the same amount of speed during these times and with no cessation?

A. I don't say the same amount of power; there might be more steam and there might be less steam at times. You cannot keep a constant steady power of steam on all the time.

Q. Well, what does the man do who operates the

(Deposition of John Henry.)

winch and how is the winch operated in discharging cargo?

A. How is the winch operated in discharging cargo?

Q. Just tell me exactly what the man does who operates the winch, when he discharges cargo?

A. Well, all he has to do is to turn the steam on.

Q. Well, what is the next thing he does?

A. He does not do anything at all; stands at the winch there and if anyone sings out that he wants to stop, they stop.

Q. Then he does stop sometimes?

A. Yes, if anyone wants him to stop.

Q. Well, what would he stop for—would there be anything in the raising of the cargo from the hold and discharging it would cause him to stop? [384—49]

A. Not at the time we were working because we had a fall to the end of the winch and when the bags were high enough out of the hold all the man had to do at the winch was to throw his fall off the barrel of the winch.

Q. You were not heaving in constantly with this tackle attached to Captain Miller's line during the afternoon and evening, were you?

A. Not all, no.

Q. Do you know what time you did begin to use the steam in heaving on Captain Miller's line?

A. That I cannot say; they were at it a good many times but did not take much notice at the time when they used it.

Q. Well, it was not continuous?

(Deposition of John Henry.)

A. No, it was not.

Q. And how much of the time you say you cannot say? A. No, I cannot say.

Q. Well, can you say whether it was much or little? A. It was a good bit.

Q. Do you know when it began, this heaving on Captain Miller's line?

By Mr. OLSON.—OBJECTION, on the ground that it is answered already.

A. (By WITNESS.) It was in the afternoon some time, but which time I cannot say. The steam had been used before I knew anything at all about it, before I knew they were using it.

(By Mr. LEWIS.)

Q. Referring now to the time that the vessel stranded, I will ask you whether or not after she stranded you set up any signals to the effect that you wanted assistance?

A. Yes, after I went on the reef. [385—50]

Q. What time did you set up those signals?

A. About three o'clock.

Q. And those signals, what were those signals?

A. Blue lights, flare-ups.

Q. In the morning was there any intimation made by you that you wanted assistance?

A. No, not after daylight.

Q. You did want assistance, didn't you after daylight? A. Yes, I did.

Q. This conversation that you had with Captain MacAlister in regard to the employment of the "Intrepid"—that did not take you very long did it?

A. No, it was not a great deal of time.

(Deposition of John Henry.)

Q. Did not take more than five minutes?

A. Yes, it did.

Q. About how long? A. About ten minutes.

Q. Well, how long was it from the time that Mac-Alister came alongside with his boat until he had his hawser fast?

A. From a quarter of an hour to twenty-minutes.

Q. A quarter of an hour to twenty minutes?

A. Yes.

Q. When the "Celtic Chief" went on the reef was there any swell running? A. Very little.

Q. As a matter of fact, the place where you stranded, is not there more or less swell running there all the time?

A. Well, when the vessel was on the reef there was times when there was no swell at all.

Q. What amount of sail did you have on the "Celtic" [386—51] "Chief" when you first struck the reef?

By Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination and further on the ground that it is incompetent, irrelevant and immaterial.

By Mr. LEWIS.—I will state that the purpose of this question all goes to show the peril in which the ship was in at that time; that if the vessel drifted on her peril was one condition, and if she went on with sails set, showing the manner in which she went on, the force which acted upon her to put her further on the reef, are certainly relative and material, as showing the conditions of peril of the ship.

By Mr. OLSON.—I repeat the OBJECTION.

(Deposition of John Henry.)

A. (By WITNESS.) Six topsails.

(By Mr. LEWIS.)

Q. How long did the sails which you had on the "Celtic Chief" when you struck the reef remain set?

A. As soon as I touched the reef. How long did they remain set? (QUESTION WITHDRAWN.)

Q. After the "Celtic Chief" struck the reef how long did your sails remain set?

By Mr. OLSON.—I make the same OBJECTION as before.

A. (By WITNESS.) I took them off as soon as we struck the reef. The anchor was dropped as soon as we struck the reef and the sails were taken off the ship.

(By Mr. LEWIS.)

Q. What time did you strike the reef? [387—52]

A. At two-thirty, about that time.

(By Mr. MAGOON.)

Q. A. M.? A. Yes. A. M.

(By Mr. LEWIS.)

Q. How long was it after you struck the reef that all your sails were taken in?

By Mr. OLSON.—I make the same OBJECTION.

A. (By WITNESS.) I don't suppose it was any more than a quarter of an hour.

(By Mr. LEWIS.)

Q. After you first struck the reef what was the movement of the ship as to her going further on?

By Mr. OLSON.—I make the same OBJECTION.

(By Mr. LEWIS.)

Q. Was there anything by which you could tell how far she went on after she struck?

(Deposition of John Henry.)

By Mr. OLSON.—I make the same OBJECTION.

A. (By WITNESS.) No, I cannot tell that.

(By Mr. LEWIS.)

Q. Did she go further on after she struck?

A. She may have went a bit, yes.

Q. Did the swell, whatever there was out there on that morning of December the 5th, the morning that you went on, have any effect in putting her further on? A. It would help a little.

Q. You were asked many questions about the wind by your [388—53] counsel, but I do not remember what your answer was as to what the wind was on the morning of December 6th—was there any wind blowing at that time when you struck?

A. No, there was not.

Q. None at all?

A. Might have been a light air.

Q. Enough to fill your sails?

A. No, not at that time.

Q. The "Intrepid" you said took hold in the neighborhood of seven o'clock, I believe, about half-past seven? A. Yes, about that time.

Q. She was attached by means of a hawser continuously to your ship, during the day of the 6th—that was Monday? A. Yes.

Q. And also Tuesday? A. Yes.

Q. Monday night and also Tuesday night?

A. Yes, that is right.

Q. And Wednesday up to, as you have testified, along about noon? A. That is right.

Q. Well, now during all the times that the "Intrepid" was attached by means of this hawser to the

(Deposition of John Henry.)

"Celtic Chief" up to, we will say, six o'clock A. M. of Wednesday, did you make any complaint of Captain MacAlister about how he was pulling or how he was maneuvering the Tug "Intrepid"?

A. There was once or twice that I sang out to him that he was not doing much.

Q. When was that?

A. I cannot say that. [389—54]

Q. Was that at high tide or low tide or was it in the daytime or night-time? A. In the daytime.

Q. Do you remember the condition of the tide at that time? A. No, I cannot say that.

Q. You think then that it was two or three times that you told him that?

A. Twice, yes, that I sung out to the tugboat.

Q. By what means did you sing out—did you have a little trumpet there or sing out with an instrument?

A. At that time I sang out from the stern of the poop.

Q. Just sang out? A. Yes.

Q. A tug operating with her propeller makes some noise does she not? A. I suppose so; yes.

Q. You don't know whether or not Captain MacAlister heard you, do you?

A. Well, there was some one heard me on board.

Q. You did not send him any written message or anything of that kind? A. No.

Q. Did you give him any written orders at all?

A. No.

Q. Or did you give him any orders whatever up to six A. M.? A. No, I gave him no orders.

Q. The "Intrepid" was attached directly astern of

(Deposition of John Henry.)

the "Celtic Chief," was she not? [390—55]

A. Yes, awhile she would be a little bit on the quarter and awhile she would be right on the stern when she moved about.

Q. That is, her general direction was directly astern, moving to starboard and port? A. Yes.

Q. Being a tug she had no anchor and consequently moved back and forth in the stern to the direction of port and starboard? A. Yes, that is so.

Q. What did the Young Brothers' launch do?

A. What did the Young Brothers' launch do?

By Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination.

A. (By WITNESS.) He passed his line aboard.

(By Mr. LEWIS.)

Q. What did he do after he passed his line aboard?

A. Started to tow.

Q. With the launch? A. Yes.

Q. How long did he tow?

A. That I cannot say; his line carried away a few times.

Q. What was the size of the line?

A. That I cannot say.

Q. Do you know anything about the power or style of this launch? A. Know nothing at all about her.

Q. How long was he engaged with this business of pulling on this line? [391—56]

A. About two hours.

Q. What was the size of the line?

A. I told you I did not notice.

Q. Was it his line or your line?

A. It was his line.

(Deposition of John Henry.)

Q. A big line or a little line?

A. Well, I think it would be about a four-inch line.

Q. You say you think he pulled about two hours, after that did he do any more pulling?

A. No, he did not do any more pulling.

Q. That is at no time thereafter during the salvage operations? A. No.

Q. A letter has been introduced in evidence here which you wrote to the tug "Intrepid," to the master of the tug "Intrepid," or delivered to the tug "Intrepid," and you have also stated that the conditions on which the "Arconia" would pull on the "Celtic Chief" were that the tug "Intrepid" must be taken away?

By Mr. OLSON.—OBJECTION, on the ground that it improperly states the testimony of the witness, his testimony being not that the "Intrepid" must be taken away but she must yield her position to the cruiser, and the letter showing definitely itself that the "Celtic Chief" was perfectly willing to give the "Intrepid" another position. (QUESTION WITHDRAWN.)

(By Mr. LEWIS.)

Q. You stated in your examination apart from the letter which has been introduced that the conditions upon which the cruiser "Arconia" would pull, and the only condition upon which [392—57] she would pull was that the tug "Intrepid" be taken out of the position in which she was lying at that time—that is correct, is it not?

A. Well, the condition is I had the offer of that cruiser and unless I got the position clear for her he

(Deposition of John Henry.)

could not, he would not pass his line aboard the ship.

Q. Well, in other words, I understand your arrangement with the captain of the cruiser "Arcona" was that he would not pull on the "Celtic Chief" unless the "Intrepid" was taken away from the position in which she was then pulling—is not that correct?

A. That is correct, yes.

Q. Now, did you not say or state to Captain MacAlister that those were the conditions on which the "Arcona" would pull, did you?

A. No, certainly not, I had no reason to do so.

Q. Prior to the time or just prior to the time that the cruiser came out there on Wednesday morning Captain Miller came out with the "James Makeé," did he not, which was being towed at that time by the "Mokolii"—is not that correct?

A. I do not know which vessel was towing her, but it was the "James Makee" that was out there, but which vessel was towing her I know nothing at all about.

Q. There were two vessels that approached the Celtic Chief," one of which was the "James Makee," and she was being towed by another vessel?

A. Yes, that is so.

Q. That is the correct situation? A. Yes.

Q. As they approached the "Celtic Chief" they came in [393—58] between the positions occupied by the "Helene" and the "Intrepid," didn't they?

A. Quite so, yes.

Q. The "Intrepid" at that time moved over towards the "Mikahala," didn't she?

A. Yes, close alongside the "Mikahala."

(Deposition of John Henry.)

Q. Do you know how far from the "Makahala" she was? A. She was close alongside.

Q. Now, by that move the anchor was placed which you have heretofore testified to?

A. By that move, yes.

Q. There was then plenty of room between the tug "Intrepid" as she then lay and the "Helene" for the "James Makee" being towed by the "Mokolii" to turn around, drop the anchor and go out without any danger to the "James Makee," the "Mokolii" the "Intrepid" or the "Helene"; that is correct, is it not?

By Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination.

A. (By WITNESS.) The "James Makee" never was turned round.

Q. The "Mokolii" was turned round?

A. Yes, but astern of the "Intrepid."

Q. Well, the operation was successfully carried on? A. Yes.

Q. Without danger to any of the vessels?

A. Yes, quite so.

Q. And there was plenty of room to carry on the operations, [394—59] was there not, after the tug "Intrepid" moved over?

A. Yes, after the tug "Intrepid" moved over, but there was not room to operate two vessels in tow.

Q. Well, one of the vessels turned round in that space?

A. No, outside the stern of the "Intrepid," or rather ahead of the "Intrepid"; her head was pointing to the southward.

(Deposition of John Henry.)

Q. Well, it was very close to the position where the "Intrepid" lay?

A. No, it was a good bit off from the "Intrepid."

Q. That anchor was dropped off the "James Makee," was it not?

A. Yes, that anchor was dropped off the "James Makee," I believe.

Q. Now, when the anchor was being dropped off the "James Makee," the "James Makee" at that time was a trifle astern of the "Intrepid," was she not?

A. When the anchor was dropped?

Q. Yes.

A. Ahead of the "Intrepid"; further to the south.

Q. But she was not very far distant from the "Intrepid"?

A. I could not say what distance there was, but it was a good bit.

Q. Well, by distance I mean distance ahead of the "Intrepid"—she was not a great distance ahead of the "Intrepid" was she?

A. No, not a great distance.

Q. After the anchor was dropped the "James Makee" was pulled in towards the "Celtic Chief," was she not?

A. Towards the stern of the "Celtic Chief"; yes.
[395—60]

Q. The line of the "Intrepid" was still fast at that time and the "Intrepid" was still working, was she not?

A. The tow-line was slack; there was no weight on the line at all. It was simply lying in the water.

Q. Her propeller was moving, was it not?

(Deposition of John Henry.)

A. I cannot say that.

Q. Well, she was still occupying a position alongside or near the "Mikahala" with her hawser attached to the "Celtic Chief" at the time that the "James Makee" pulled in towards the stern of the "Celtic Chief"?

A. Her hawser was aboard but she was not doing any good.

Q. And there was plenty of room to carry on that operation with the "Intrepid" attached as she was at the time? A. To run the anchor out; yes.

Q. When the "Intrepid" moved over towards the "Mikahala" and occupied the position which you say that she did, was there anything to have prevented the "Intrepid" from pulling from that position which she occupied after she moved over?

A. Not if she had pulled alongside another vessel, and I never saw a tug do that; I do not see how she could do that lying alongside another ship.

Q. Well, granting that the tug "Intrepid" had to move over a trifle away from the "Mikahala" could she not then have successfully pulled from that position and allowed plenty of room to run the line from the German cruiser "Arcona" in between her and the "Helene"?

By Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination, [396—61] the testimony of the witness being that the cruiser required the position which was occupied by the "Intrepid" before she would put a line aboard the "Celtic Chief."

A. (By WITNESS.) No, there was not enough

(Deposition of John Henry.)

room to run the line.

(By Mr. LEWIS.)

Q. What is that?

A. No, there was not enough room to run the lines. They would have had to have had one on each side of the "Intrepid." There was two lines put out from the cruiser and if the "Intrepid" had kept in the position these wire hawsers would have had to have been one on each side and that would not do; you could not pass them out that way, one on each side of a small tug that is going from one side to the other of the ship.

Q. That statement you have made applies, would apply if the "Intrepid" had not changed her position at all, would it apply to the position which the "Intrepid" afterwards took, nearer the "Makahala"?

A. Well, it applied because he would have got his propellers foul of the wires; he could not have kept in one straight position all the time; he would have been moving back and forth.

Q. Could not he have operated his vessel in that position and kept her clear of the cruiser's wire, if he kept close to the "Makahala"?

A. No, he could not.

(At 10:45 A. M. the parties took a recess of five minutes.)

Q. Captain Henry, I wish that you would take a pencil and paper and outline to me here roughly the position of the [397—62] steamers and the tug as they existed at the time that the "Arcona" came out to the scene of the stranding on the morning of Wed-

(Deposition of John Henry.)

nesday December the 9th? (Hands paper to witness.)

A. Well, I would rather not do it. I do not see why I should do that. (Draws on paper.)

Q. Captain Henry, you have, pursuant to my request, drawn on a piece of paper the positions of the "Celtic Chief", with the "Mauna Kea," tug "Intrepid," "Helene" and "Likelike" pulling on her at the time that the "Arcona" appeared upon the scene on Wednesday morning—relative to this diagram I desire to call your attention to the words "Mauna Kea" appearing thereon and ask you whether or not it is not true that the "Mauna Kea" was not there at the time, but that the steamer "Helene" was there?

A. The "Helene" was there, yes. The "Mauna Kea" was not there. She took the "Mauna Kea's" position.

Q. So you now cross out the "Mauna Kea"?

A. Quite so; yes.

Q. In addition to what you have already drawn here will you kindly designate the approximate position of the anchor placed by the Miller Salvage Company? A. (No answer, draws on paper.)

By Mr. OLSON.—I OBJECT to the question, on the ground that no proper foundation has been laid therefor, it not appearing that the captain knows the exact position where the anchor was laid.

(By Mr. LEWIS.)

Q. In pursuance of counsel's objection I will ask you to place the position of the anchor on there if you do know approximately where it was. [398—63]

A. I do not know the position of the anchor; I do

(Deposition of John Henry.)

not know where he dropped it; I can only tell you the lead of the line.

Q. Well, after that anchor was dropped there was a line, was there not, run from that anchor to the ship? A. Quite so; yes.

Q. Well, as near as you can, draw the position of the anchor with reference to your knowledge from the fact of the line running towards the ship?

By Mr. OLSON.—SAME OBJECTION, on the ground that it does not appear that the captain knows where the anchor was laid.

(By Mr. LEWIS.)

Q. I further ask you whether or not, after the anchor was dropped, a buoy was not placed to note the position of the anchor?

A. Yes, I believe there was a buoy.

Q. Well, with reference to that buoy and the line as it came aboard the "Celtic Chief" from the anchor, place the position of the anchor according to your best knowledge.

By Mr. OLSON.—OBJECTION to the question, on the ground that no proper foundation has been laid, it not appearing that the captain knows where the anchor was laid. If you ask him to designate where the buoy was which he saw you can then find out where the anchor was.

(By Mr. LEWIS.)

Q. You knew where the buoy was situated, didn't you? A. Not exactly.

Q. You saw the buoy? [399—64] A. Yes.

Q. Taking into consideration where you saw the buoy, place the position of the buoy upon the paper.

(Deposition of John Henry.)

A. (Drawing on paper.) —a little further ahead of the "Intrepid."

Q. On this paper you have designated the "Celtic Chief," a circle representing the "Celtic Chief," by the words "Celtic Chief"? A. That is right.

Q. A circle representing the "Mauna Kea" by the words "Mauna Kea," a circle representing the tug "Intrepid" by the words "Tug Intrepid," a cross by the word "Buoy," the steamer "Helene" by the word "Helene"? A. Yes.

Q. And the "Likeliike" by the circle and "Like-like"? A. Yes.

By Mr. LEWIS.—I now offer this paper in evidence and ask that it be marked "Libellant Inter-Island Steam Navigation Company and Libellant Matson Navigation Company Exhibit No. 1." (Received as Mr. Lewis' Libellants' Exhibit No. 1.)

Q. I will now ask you, Captain Henry, to designate on this plan the position of the German cruiser "Arcona" when she was finally attached to the ship "Celtic Chief"? A. (Draws on paper.)

Q. Will you kindly draw a long black line through the designation of the "Celtic Chief"?

A. (Draws on paper.)

Q. And I will ask you to designate that line by two letters, A and B. A. (Marks paper A and B.)

[400—65]

Q. What do you mean to designate by that line A and B—what is your idea in drawing that line A and B?

A. That is the line that the ship was on, the fore and aft line of the ship "Celtic Chief."

(Deposition of John Henry.)

Q. The letter "A" representing the position towards the sea and the letter "B" representing the position towards the land? A. Yes.

Q. Pursuant to my request you have drawn a circle and marked the circle "cruiser," you have also drawn two lines between the circle marked "cruiser" and the circle marked "Celtic Chief," and I will ask you now what that is supposed to represent.

A. The wire hawser of the "Arcona."

Q. And that also represents the position of the "Arcona," relative to the "Celtic Chief" while she was pulling? A. While she was pulling; yes.

Q. And after she was finally placed in position?

A. After she was finally placed in position; yes.

Q. What was the approximate distance between the tug "Intrepid" and the "Mikahala" before the "Arcona" was placed in her position—that is, what was the position of the tug "Intrepid" before the "Arcona" came out there on the morning of the 8th of December?

A. What was her position, the distance between those two vessels, I cannot say.

Q. Give us your best knowledge.

A. About fifty feet; less than that at times.

Q. In the position which you have drawn the "Intrepid" on this diagram and the "Mikahala," what would you say would [401—66] be the difference in feet between the two vessels?

By Mr. MAGOON.—(To Mr. LEWIS.) Give us the time.

By Mr. LEWIS.—Prior to the appearance of the "Arcona"?

(Deposition of John Henry.)

A. (By WITNESS.) Between fifty and sixty feet; the distance between the "Mikahala" and the tug.

Q. That is as you have there drawn it?

A. Yes, as I have there drawn it.

Q. What was the distance between the tug "Intrepid" and the "Helene" as you have there drawn it and prior to the time that the "Arcona" appeared?

A. That I would have no idea.

Q. Well, approximately?

By Mr. OLSON.—OBJECTION, on the ground that the captain says he has no idea.

(By Mr. LEWIS.)

Q. As you stood on the stern of the "Celtic Chief" and looked out on these vessels you must have formed some idea as to the relative distances between the two—now kindly give us your best knowledge of the distance between the two vessels, which I have just heretofore named, namely, the "Intrepid" and the "Helene."

A. Well, there would be more than was between the "Mikahala" and "Intrepid."

Q. About how much?

A. Thirty or forty feet, according to my judgment; that is all I can say.

Q. Thirty or forty feet?

A. Yes, according to my judgment.

Q. Well, let me direct your attention to your testimony [402—67] when you say that the "Intrepid" was distant from the "Mikahala" between fifty and sixty feet and you say that the "Helene" was a little further from the "Intrepid" than was the

(Deposition of John Henry.)

“Mikahala”? A. Yes.

Q. And when you say the distance between the “Helene” and the “Intrepid” you place it only thirty or forty feet, while you place the distance between the “Mikahala” and “Intrepid” as only forty or fifty feet?

(By Mr. OLSON.)

Q. Well, I don’t understand that; I understand that he said the distance was more.

A. (By WITNESS.) Yes.

(By Mr. LEWIS.)

Q. Is that correct? A. Yes.

(Previous question of Mr. Lewis withdrawn.)

Q. The position occupied by the cruiser as you have shown on the map here is in advance and towards the sea of all the vessels pulling?

A. Quite so; yes.

Q. When the cruiser came out she placed her anchors or her anchor up to a position towards the left of the letter “A” which you have designated on the diagram and then dropped back into the position which you have there designated—is that correct?

A. Where she dropped her anchor I don’t know. She would drop her anchors to the right or ahead of her position.

Q. You think, then, that her anchor was dropped ahead of the position and towards the letter “A” rather than to the [403—68] left of the letter “A”? A. Yes.

By Mr. MAGOON.—Well, I OBJECT, unless the captain knows whether she dropped her anchor.

Q. Do you know whether she dropped her anchor?

(Deposition of John Henry.)

A. Certainly she did; yes.

Q. You saw it? A. Yes, I did.

(By Mr. LEWIS.)

Q. Will you kindly tell me why it was not possible for the cruiser to have taken a position a little towards the right of the position occupied by the position which you have now located on this map?

A. No, it would not have done.

Q. Why not?

A. Because she would not have got the same strain on the wire hawsers.

Q. Why not?

A. Because she was not in a fore and aft line with the "Celtic Chief," and, therefore, she could not get the same strain on each line.

Q. How much more would she have had to move towards the right to have lost that position which you have stated?

By Mr. OLSON.—OBJECTION to the line of cross-examination, on the ground that it is improper cross-examination and that it is incompetent, irrelevant and immaterial, as the captain's statement of the reason for the cruiser being able or not being able to take one position or another has nothing to do with the position that was actually taken by the cruiser, nor the [404—69] reasons for her taking that position, the testimony being that the cruiser insisted upon the position directly astern occupied by the "Intrepid" before putting a line aboard.

By Mr. LEWIS.—In reply to counsel's objection I will here state at this time that the question asked by counsel for libellant also goes to the point of show-

(Deposition of John Henry.)

ing the spirit under which the German cruiser undertook her salvage operations at this particular time, the selfish and uncalled for position, and my endeavor is to show that the German cruiser could have attached herself with perfect safety to the ship "Celtic Chief" and still have left room for the tug "Intrepid."

By Mr. OLSON.—I make the same OBJECTION.

A. (By WITNESS.) That I cannot say. I cannot say how much she would have had to move.

(By Mr. LEWIS.)

Q. She could however, have taken the position which I have just mentioned with perfect safety to herself, could she not?

By Mr. OLSON.—OBJECTION, on the ground that it is indefinite; I don't know to what the question refers.

A. That I cannot say.

(By Mr. LEWIS.)

Q. When the German cruiser appeared on the scene the tug, "Intrepid" did actually move, didn't she, from the position which you have designated here, over towards the position which you have designated by the "Mikahala"?

A. She was moved, yes. [405—70]

Q. And that is also true, is it not, of the situation as it existed at the time that the Miller Salvage Company laid the anchor—didn't the "Intrepid" move over from that position to the position occupied by the "Mikahala"?

A. She was not there constantly; she was back and forth all the time.

(Deposition of John Henry.)

Q. Well, he occupied a position nearer than this to the "Makahala"?

A. Sometimes he did and sometimes he did not; he was moving back and forth.

Q. Well, in his movements back and forth at the time when the "James Makee" and the "Mokolii" came in here he did not interfere with the working of the "James Makee," did he?

A. That I cannot say.

Q. You did not see him interfere?

A. I was there on the poop and saw it all but I did not see any interference.

Q. And it was shortly before the "Arcona" came out that the "Mokolii" came out with the "James Makee" in tow, and the "James Makee" was placed in a position between the "Intrepid" and the "Helene" and gradually drawn up close to the "Celtic Chief"?

A. She was drawn up close to the "Celtic Chief."

Q. And at the time I have mentioned, just shortly before the "Arcona" came out?

A. Good bit before.

Q. Well, it was during the morning that the "Arcona" came out?

A. Yes, during the morning. [406—71]

Q. You have stated in your direct examination that when the line of the "Intrepid" was cut, that it did not immediately leave the vessel?

A. No, that is right.

Q. And you stated that your impression from that occurrence was that there was no strain on the line at all? A. Well, there was not much.

(Deposition of John Henry.)

Q. That was at a time, was it not, when the "Intrepid" was up close to the "Makahala"?

A. No, not at that time.

Q. How far was she from the "Makahala" when you actually cut the rope?

A. That I cannot say.

Q. Approximately—was she close to it or far away?

A. She was close to the "Makahala" but I cannot say how far.

Q. Well, if that is the case, what did you cut the line at all for, why didn't you simply take it out of the chocks and throw it overboard?

A. I could not take it off the top of the bitt; it was a wire with an eye and the tug might go ahead and snap some of the men's fingers while they were getting it off.

Q. Well, why didn't you simply take it off the bitt and throw it over, there was no strain on the line?

A. Well, if the tug went ahead what would have happened?

Q. Well, there was no strain before that and you could simply have lifted it out of the bitts?

By Mr. OLSON.—OBJECTION, on the ground that it has been asked and answered, the Captain saying that it was unsafe to do so. [407—72]

A. (By WITNESS.) Well, I could not say that the tug might not have gone ahead while we were trying to get it off of the bitts and endangered some of the men; perhaps got their hands cut off. If the tug went ahead what would have happened at that time?

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Q. As a matter of fact, I presume the reason you cut it was because you wanted to get it out of the way quickly?

A. Well, I gave him plenty of warning to get it out of that before.

Q. Well, I presume the reason was that you wanted to get it out of the way quick as possible, and that was the quickest way?

A. No, cutting it was not the quickest way.

Q. What was the quickest way?

A. If he had slacked down we could have thrown it off the bitts.

Q. During the course of your direct examination you also stated that there was no strain upon the "Makahala's" line, or not much strain on the "Makahala's" line, but a little more than the "Intrepid," but not a great deal of strain—did you at any time make any request of the "Makahala" to increase her towing, the speed of her towing and increase the strain? A. No, I did not.

Q. You have also made some statement as to the "Likelikey"—what was the condition of her lines?

A. Her line was in the water most of the time.

Q. Did you make any request of her at any time?

A. No.

Q. You were anxious to get the ship off, were you not? A. Yes, I was. [408—73]

Q. Well, you did not notice these lines all the time?

A. No, not all the time.

Q. You also stated that there was some damage done by the "Makahala" to your rail?

A. No damage done by the "Makahala."

(Deposition of John Henry.)

Q. Oh, yes, by the "Mauna Kea."

A. That is so.

Q. To your rail? A. Yes.

Q. What else? A. The wharfing chock.

A. And also the mizzenmast? A. Yes.

Q. Will you kindly tell me how that damage occurred—what was the cause of the damage—how did it happen? A. Well, by the strain on the rope.

Q. The strain placed on the rope by the "Mauna Kea"? A. Quite so; yes.

Q. You do not wish to infer by that that there was a lack of seamanship on the part of the "Mauna Kea," do you, when that was done—it was simply one of the incidents which occurred in pulling, and that she was using her best efforts to pull the ship off and that damage was the result?

A. Well, it could not have been a steady strain or it would not have broken that twelve-inch manila; it must have been a jerk.

Q. Well, it must have been the result of the jerk?

A. I suppose so; yes.

Q. As to the line which went to the cruiser "Arconia," your line, a portion of it was introduced in evidence and [409—74] marked "Captain Henry's Exhibit B"—was that a new line or an old line?

A. A new line. It never had been used.

Q. Do you remember where this line broke?

A. I cannot tell where it broke, but it broke between the "Arconia" and the "Celtic Chief."

Q. You have stated that the ship was attached—that the cruiser was attached to the ship by two lines—what was the size of those lines?

(Deposition of John Henry.)

A. Four and a half.

Q. Wire? A. Wire; yes.

Q. Did you see the whole length of those lines?

A. Yes, I saw the whole length of them.

Q. You did not go on board the cruiser to ascertain how they were fastened there?

A. No, I never was off the ship.

Q. During the time that the "Arconia" was attached to your ship—she was pulling in the early afternoon of the 8th was she not?

A. That is right, yes.

Q. And at that time she parted this line which you have introduced in evidence here?

A. Quite so; yes.

Q. That you say was in the early part of the afternoon, later on in the afternoon after this line was parted did she do any more pulling?

A. Yes, certainly.

Q. When did she begin pulling again after she parted this line? [410—75]

A. About six o'clock. They started to get her hawsers—to get an equal strain on her hawsers about that time.

Q. Now, give me the best idea as to when this line parted, that you have introduced in evidence.

A. Between two and three o'clock.

Q. How long had she been pulling prior to that time? A. That I cannot say.

Q. Had she been pulling any length of time?

A. No, not a great length of time.

Q. As a matter of fact, when she got her first steady strain on the hawsers before she had been pull-

(Deposition of John Henry.)

ing any length of time at all, didn't the hawser break?

A. I don't know whether she had been pulling any length of time then or not.

Q. Well, when was the—when were the lines of the German cruiser for the first time finally made fast and taut to the "Celtic Chief" ready for pulling?

A. The two lines, the two wires, or just the one?

Q. Whatever way you want to take it—the first time that the "Celtic Chief" was made fast to by the cruiser ready for pulling, whether it was one or two lines—what I am getting at now is the first time, the first attempt to pull, made by the "Arcona" on the "Celtic Chief"? A. About two o'clock.

Q. Was there one or two lines at that time?

A. One line from the "Celtic Chief" and another light wire to get her into position, not for towing, but to get the vessel in position.

Q. Do I understand you, in that attempt was everything prepared ready for pulling? [411—76]

A. Yes, everything was prepared.

Q. At what time in the afternoon?

A. About two o'clock.

Q. And after everything was prepared and ready for pulling how long did she pull—when did she begin to pull?

A. I cannot tell you when she began to pull.

Q. Then after the line was prepared ready for pulling when did the line break?

A. It broke about three o'clock, between two and three o'clock; I did not take the time.

Q. Between the time that the line was prepared ready for pulling and the time that the line broke, did

(Deposition of John Henry.)

you notice the line between the "Celtic Chief" and the "Arcona" to observe whether or not the "Arcona" was pulling?

A. I saw it tighten up certainly.

Q. You saw it tighten up? A. Yes, I did.

Q. How long was that after the line was prepared ready for pulling that you saw it tighten up?

A. I cannot say.

Q. What is that?

A. I cannot say; about twenty minutes or half an hour.

Q. How long was it after this first line was broken before the next attempt was made by the "Arcona" to make lines fast to the "Celtic Chief"?

A. The next attempt was shortly after the line carried away.

Q. What did the officers of the cruiser then do towards making a line fast—did they put on one line or is that the time they put on the two lines? [412—77]

A. This time they started to put on the two lines, and they ran their own wire hawser while they were getting ours spliced.

Q. Now, these two lines that you are speaking about, do I understand you that was wire that belonged to the ship or to the cruiser?

A. I said before that one wire belonged to the ship and one to the cruiser.

Q. Well, you said something about one being spliced, which was the line that was spliced?

A. It belonged to the "Celtic Chief."

(Deposition of John Henry.)

Q. That was spliced on to the line of the "Arconia"?

A. No, the two broken parts were spliced together, of the wire.

Q. Then you took two pieces of wire belonging to the "Celtic Chief" and spliced them together and that furnished one of the lines by which the cruiser pulled on the ship? A. Yes, that is right.

Q. Whose property was the other wire?

A. The cruiser's.

Q. Do you know whether as a matter of fact your spliced line led entirely the whole distance between the "Celtic Chief" and the cruiser?

A. No, I believe that we bent on another wire afterwards, after they had it spliced.

Q. After they had it spliced it was bent to another wire and that wire was attached to the cruiser?

A. Yes.

Q. The size or condition of that wire you don't know?

A. Don't know anything about that. [413—78]

Q. Now, take the other wire of the German cruiser, do you know whether that led entirely from the cruiser to the "Celtic Chief"?

A. Yes, it did; all one wire.

Q. You don't know how that was attached on board the cruiser? A. No, I do not.

Q. You don't know whether that was spliced or not? A. Know nothing at all about that.

Q. With reference to this strain which was exercised by the "Arconia" upon the two lines, which was the second attempt made by the "Arconia" to pull on

(Deposition of John Henry.)

the "Celtic Chief," as I understand your testimony you said that the strain began at six o'clock on the 8th.

A. She started to get her wires tight; at five o'clock they made fast with the hawsers aboard the "Celtic Chief" and after that she started to heave in on them and get an equal strain on them.

Q. How long did this heaving in process continue, that is, this process to get the lines set?

A. I could not say.

Q. Approximately?

A. That I cannot tell; but I could tell better if I had been aboard the "Arcona"; but I could not tell aboard my own ship.

Q. With reference to the lines as they appeared approaching aboard the "Celtic Chief."

A. At eight o'clock they were quite tight.

Q. How about the time between six and eight?

A. You could see them at times, that the men aboard the [414—79] cruiser were working with them to get an equal strain on them.

Q. Well, this process of heaving in between six o'clock and eight o'clock P. M. was the process of heaving to get the lines in position to pull, or set for pulling? A. To get an equal strain on them; yes.

Q. Well, take from eight o'clock P. M. when you say that you noticed a strain upon the lines, was there any intimation which you noticed from eight o'clock P. M., on and after which indicated that the cruiser was pulling on those lines?

A. Yes, certainly; I could see the lines standing right out of the water.

(Deposition of John Henry.)

Q. Then, as I understand you, this is the time which you had reference to in your direct examination when you stated that the wires between the "Celtic Chief" and the "Arconia" were like an iron bar across?

A. I don't think I mentioned anything about iron bars in it.

Q. Well, I will withdraw that—that was the time when you then said that it was like a straight line across? A. Yes, quite so.

Q. That there was no dip or fall to the line?

A. There may have been an occasional dip, I would not say as to that, but any time I noticed there was always a steady strain on them and the lines straight out of the water.

Q. There was no search-light playing from dusk until nine-thirty P. M. was there?

A. Until when?

Q. Until nine-thirty.

A. That I cannot say. [415—80]

Q. There was not any at nine-thirty on that evening, was there? A. I cannot say when it started.

Q. Well, to the best of your recollection, when was the first time you remember the search-light being played on that night?

A. About ten o'clock, I think; it may have been on before that but I cannot say.

Q. At any time after six o'clock did you notice any movement at the stern of the "Arconia" which led you to believe that she was working her engines?

A. No, I did not.

Q. What is that?

(Deposition of John Henry.)

A. No, I did not notice any. I do not know whether she was working her engines or not.

Q. Well, as far as you know, you don't know and you won't swear that she worked her engines and moved her propellers after six o'clock on the night of the 8th? A. I would not swear to that; no.

Q. At the time that the "Celtic Chief" came off the reef did you notice the cruiser "Arcona"?

A. Yes, I did.

Q. Is it not true that when the "Celtic Chief" was finally afloat from the reef and off the reef that the lines of the "Likeliike" and "Helene" were first cut and then the third line to be cut was that of the "Mikahala"? A. That is quite right; yes.

Q. When the "Celtic Chief" came off the reef after she was floated, and immediately after she was floated, didn't she approach very close to the stern of the "Arcona"? [416—81]

A. Not very close, no.

Q. She did not? A. No.

Q. As the "Celtic Chief" came off the reef didn't the relative distance between the "Arcona" and the "Celtic Chief" lessen?

A. Yes, certainly it lessened.

Q. How much did that distance lessen?

A. That I cannot say.

Q. Was not the "Arcona" directly astern of the "Celtic Chief"? A. Yes.

Q. And if the "Arcona" had been pulling at the time would not the relative distance between the stern of the "Celtic Chief" and the stern of the "Arcona" remain practically the same?

(Deposition of John Henry.)

By Mr. OLSON.—I will admit, and I take that an admission dispenses with the necessity of proof, I will admit that when the "Celtic Chief" came off the reef that the distance between the "Celtic Chief" and the "Arcona" very materially diminished, and that the "Arcona" did not go forward immediately.

By Mr. LEWIS.—I don't care for that admission.

By Mr. OLSON.—I, therefore, OBJECT to any further examination tending to show any such condition of affairs at that time.

By Mr. LEWIS.—I am very sorry that this very line of testimony pinches so but I certainly submit that I have a right to have it. [417—82]

By Mr. OLSON.—I OBJECT to the question further, on the ground that it calls for a conclusion of the witness; the facts are what we want and not the witness' opinion. I OBJECT further, on the ground that no proper foundation has been laid for the question, it not appearing from any testimony whatever that Captain Henry knows that the "Arcona" was exerting power upon these lines by means of her propeller.

A. (By WITNESS.) She may have been pulling on the ship but not with her propellers.

(By Mr. LEWIS.)

Q. I repeat my question to you and ask that you give me a responsive answer.

By Mr. OLSON.—The same OBJECTION that I made before. (Question read to witness.)

A. (By WITNESS.) If she had been pulling with her propellers, going ahead with her propellers, she may have kept the same distance. I believe she

(Deposition of John Henry.)

was not; her propeller was not used and that it was her windlass that she was heaving on, on her own anchors.

(By Mr. LEWIS.)

Q. You were not on board the "Arcona" that night? A. No.

Q. At this particular time in the salvage operations when the "Celtic Chief" was moving away from the reef after she was afloat, give me your best judgment in accordance with your knowledge of the situation, how close the "Celtic Chief" came to the stern of the "Arcona."

A. About the same distance as the "Intrepid" was when [418—83] she was towing.

Q. What would you say, Captain Henry, was the approximate distance between the stern of the "Celtic Chief" and the stern of the "Arcona" when the "Arcona" was attached to the "Celtic Chief," just before the "Celtic Chief" came off?

A. The distance between the two ships?

Q. Yes. In other words, what was the length of wire between the stern of the "Celtic Chief" and the stern of the "Arcona" during the latter part of the salvage operations? A. That I cannot say.

Q. Well, approximately—what is your best judgment? A. Before the vessel's coming off?

Q. Yes; before the vessel came off.

A. That I cannot say; I have no idea.

Q. You said that one of these lines which was attached between the "Celtic Chief" and the "Arcona" was one of your lines? A. Yes, that is so.

Q. Well, haven't you any idea of how large or

(Deposition of John Henry.)

what was the length of that line?

A. These lines were carried away and I did not know how much was carried away.

Q. Well, when his line was—when your line was paid out, when you gave it to the "Arcona," haven't you any idea how much line you gave out which afterwards furnished the connecting link between the "Arcona" and the "Celtic Chief"?

A. There was another line attached to our line from the cruiser, and how much they had out I do not know.

Q. Well, I misunderstood you in endeavoring to find out the component parts of one of those lines; I understood [419—84] you to say that one of the lines was made up by making a splice on your own line and that the other line was made up by the cruiser's line—now, you tell me that the line which was formed by two splices of your line was not the whole length of that line and that there was an additional part of that line, to wit, a portion of the cruiser's line—is that correct?

A. After the two ends were spliced together where it carried away you could not expect it to be the same length as what it was before.

Q. Well, you took two of your lines and spliced them together? A. Yes.

Q. Now, in addition to that, as I now understand you, in order to make one towing line you had to attach a line which belonged to the cruiser "Arcona"—is that correct? A. Yes, that is so.

Q. To make one line between the "Arcona" and the "Celtic Chief"? A. Yes.

(Deposition of John Henry.)

Q. That is right? A. Yes.

Q. Now, as to the other line, that was a line which was the property entirely of the "Arcona"—is that correct? A. Yes, that is correct.

Q. Well, getting back to line No. 1. What was the length of that portion of that line formed by a splicing of your two lines?

A. I would say about one hundred and fifty fathoms approximately, but I don't know for certain.

[420—85]

Q. Well, have you say any idea how much more wire from the cruiser "Arcona" was used to make up that line No. 1? A. No, I have no idea.

Q. You were on the poop of the "Celtic Chief" when the line was run over to the "Arcona"—I presume that it was run on a boat or a launch, and you could see, could you not, how far your spliced line extended from the stern of the "Celtic Chief" towards the stern of the "Arcona"—could you not see that?

A. No, I could not. I do not know how far it extended; it extended right aboard the ship, the whole length.

Q. Aboard what ship?

A. Aboard the "Arcona."

Q. Well, now, you tell me in order to make this one line you had to get an attachment from a piece of a line on the "Arcona"?

By Mr. OLSON.—OBJECTION, on the ground that it has been answered half a dozen times. It is very clear that two pieces of his line were spliced together, and as Captain Henry thinks there was an

(Deposition of John Henry.)

additional piece from the cruiser put on the line.

(By Mr. LEWIS.)

Q. Well, give me the best impression that you have, how near the line made up of your two splices approached the "Celtic Chief."

A. It was aboard the "Celtic Chief."

Q. And whether or not it was aboard the "Arconia"?

A. And went aboard the "Arconia," and there was another wire shackled on to it from there, to lead it wherever they were taking it. [421—86]

Q. I think I can clear up this by this question—at what point was the wire of the "Arconia" made fast to the wire of the "Celtic Chief"—was it at a point between the "Celtic Chief" and the "Arconia" or was it after the line of the "Celtic Chief" was carried aboard the "Arconia"?

A. I think I just told you it was after it went aboard the "Arconia."

Q. What was the relative distance between where the stern of the "Intrepid" was and where the stern of the "Arconia" was when they were both attached?

A. I cannot say that; it is very hard for me to judge. I could not say that.

Q. Well, the "Arconia" occupied a position considerably in advance and seaward of the position occupied by the "Intrepid"?

A. Yes, that is so.

(Adjournment was here taken until 9 o'clock to-morrow morning, to the Chambers of the Second Judge of the United States District Court.)

(Deposition of John Henry.)

Saturday, January 29th, 1910. (9 A. M.)

The parties in the above-entitled cause met, pursuant to adjournment, at the Chambers of the Second Judge of the United States District Court, and by agreement adjourned immediately to the courtroom of the said court, where the following proceedings were had:

Continued Cross-examination of CAPTAIN
HENRY. [422—87]

(By Mr. LEWIS.)

Q. After the search-lights were turned on, on the evening of December 8th, did you notice the lines attached to the "Mikahala," the "Helene" and the "Likelike"?

A. Well, I did notice them but I did not take much notice of them.

Q. Well, round along about eleven o'clock, was there a strain upon those lines at that time?

A. I could not say.

Q. You don't know? A. No, I could not say.

Q. When did the Captain and executive officer of the German cruiser "Arcona" come aboard the "Celtic Chief" on the evening of December the 8th?

A. Before eleven o'clock.

Q. What is that?

A. Between half-past ten and eleven o'clock.

Q. How long did they both remain on board the "Celtic Chief"?

A. The captain remained until she started to move, until the ship started to move.

Q. How long did the executive officer remain?

A. Until she was afloat.

(Deposition of John Henry.)

Q. The cruiser towed the "Celtic Chief" pretty well out to sea that night, didn't she?

A. Well, we were in deep water, out of the anchorage.

Q. She pulled you pretty well out from the mouth of the harbor, a little past the usual anchorage grounds?

A. Yes, we were past the usual anchorage grounds.

Q. What is that? [423—88]

A. We were past the usual anchorage grounds.

Q. As I understand your direct examination, she did not tow you back to the anchorage again?

A. No, she would have done if we could not have got another vessel to tow us in. She would have towed us into the anchorage.

Q. She did not do that?

A. He asked me if I could get another vessel.

Q. He preferred not to do it?

A. He asked me if I could get another vessel to tow us in.

Q. Well, as a matter of fact, didn't he say that he preferred not to do it? A. I beg your pardon.

Q. Didn't he tell you that he preferred not to tow you back?

A. No, he asked me if I could get another vessel to take me in; he asked me, in the first place, if we could anchor where we were, and the pilot said no, that we were in too deep water.

Q. And then it was he told you if you could not get another vessel to tow you back to the anchorage? A. Yes, that is right.

Q. Captain Henry, I direct your attention to the

(Deposition of John Henry.)

fact of a steamer pulling on a vessel with a towline, is it not practically impossible to cause that towline to form a straight line from where it is attached from the towing vessel to the towed vessel?

A. No, not impossible at all.

Q. Well, as a matter of fact it is very rarely that [424—89] you find a line straight, on a straight line from the stern of the towing vessel to the stern of the towed vessel where she is on the reef that way and considerable length of line out?

A. Well, different cases. If you have a powerful enough boat you will keep it tight all right, as long as there is no seaway.

Q. I understand you to say then that it is quite the usual thing and customary thing that when there is as much hawser out as there was out on that evening between the towing vessels, that the line should be on a straight line without any depression?
(WITHDRAWN.)

Q. When there is as much hawser out as there was on the occasion of the towing vessels pulling on the "Celtic Chief," that the line should have been bent, in your estimation, straight from the point of attachment on the towing vessels to the towed vessel, in order to show that there was a good strain on the line?

By Mr. OLSON.—OBJECTION to the question, on the ground that no proper foundation had been laid for the question, it not appearing from the question what the capacity of the towing vessel is, weight of the hawser, nor the kind of a vessel upon which this question has been predicated, and furthermore

(Deposition of John Henry.)

that the question is incompetent, irrelevant, and immaterial. I supplement my objection further that no foundation has been laid for the question, and on the further ground that it does not appear that the particular towing vessels that were towing on this particular occasion had any power whatever or were exerting any power or could exert any power.

[425—90]

A. (By WITNESS.) I did not say that they should have been straight all the time. If those vessels had been powerful enough no doubt they would have kept them straight all the time. If the vessels had been powerful enough, they were not large lines. At least the Inter-Island boats were not.

Q. The point I am after is this: You believe that in cases of that kind, that the line runs straight across?

A. No, not all the time.

Q. As a matter of fact, even with a very powerful vessel is it not a very difficult thing to keep the bight of the hawser out of the water?

By Mr. OLSON.—OBJECTION, on the ground that the question is indefinite and unintelligible because it does not state what the towing vessel's power is.

A. (By WITNESS.) Not in a smooth sea. In a seaway of course it is, but not in a smooth sea.

(By Mr. LEWIS.)

Q. That depends, Captain, does it not, more or less upon the length of the hawser between the towing vessel and the towed vessel?

A. I dare say it would depend a little; yes.

(Deposition of John Henry.)

Q. You understood that my remarks applied to a vessel stationary on the reef, such as you were on that occasion, and the vessel towing upon her which is not on the reef? A. You did not state that.

Q. Well, that is what I—I will reframe my question: With one vessel fast on a reef or on the shore and another vessel pulling on her with as large a line or hawser between the towing vessel and the towed vessel as there was on that occasion out here during the salvage operations, even in the case of a very powerful vessel, is it not under those conditions very [426—91] difficult to pull the line straight across between the towing vessel and the towed vessel?

By Mr. OLSON.—OBJECTION, on the ground that it is indefinite; the question not showing how much power the hypothetical towing vessel has nor the weight of the line supposed to connect the vessel with the vessel ashore.

Q. (By WITNESS.) If the vessel is powerful enough it will keep that tight.

(By Mr. LEWIS.)

Q. What is that?

A. If the vessel has plenty of power.

Q. It will do what? A. Keep that tight.

Q. And the line will be straight across with no dip in the line?

A. There will be no dip in the line; no.

Q. In your direct examination you made some reference to the men of the Inter-Island or employed by the Inter-Island working cargo out there during the salvage operations—they worked cargo, didn't they, on that occasion after a request or after a suggestion

(Deposition of John Henry.)

to you as to whether or not you desired them to work cargo? A. Yes, that is right.

Q. What is that? A. Quite right.

Q. That was done with your full consent and approval? A. Quite so; yes.

Cross-examination by Mr. WEAVER.

Q. Captain Henry, on Monday when Captain Miller came to you to offer assistance and you told him to begin lightering, [427—92] what was the condition of the sea at that time?

A. There was a light southerly swell; a light swell coming in from seaward.

Q. That day, I believe, he caused his lighters to be put alongside the "Celtic Chief" on each side?

A. Yes, quite so.

Q. How were they moored or fastened?

A. From lines to my ship.

Q. Were any of those lines parted?

A. Yes, I believe there was.

Q. How many do you know?

A. That I cannot say.

Q. More than one?

A. Yes, there was more than one.

Q. Parted where, fore or aft, towards the direction of the sea?

A. Towards the direction of the sea, yes.

Q. Do you know the size of those lines?

A. No, I do not know the size of those lines.

Q. Was the swell running at the time they were parted, this swell that you speak of? A. Yes.

Q. At that time what, if anything, was done by the lighters to prevent their injuring the ship or the

(Deposition of John Henry.)

ship injuring the lighters on the side where they were in contact—was there any fenders used?

A. That I cannot say.

Q. How was the lighter acting with regard to your vessel as to steadiness?

A. She was jumping around more than my ship was. [428—93]

Q. Would not her rail come up to your rail and higher and then drop?

A. I don't think she went higher than the rail.

Q. Well, there was a rising and falling?

A. Yes.

Q. Some ten or fifteen feet?

A. No, I don't think so.

Q. How much?

A. No more than seven or eight feet.

Q. About seven or eight feet? A. Yes.

Q. Was any damage done to any of these lighters that you know of? A. That I don't know.

Q. You did not see any?

A. I did not see any or hear tell of any.

Q. During this time was the "Celtic Chief" at any time touching the bottom? A. Yes.

Q. How would you know that?

A. How did I know the "Celtic Chief" was touching the bottom?

Q. Yes, how did you know that—was there any bumping? A. Yes, a little.

Q. You knew, of course, that she was then on the reef—was she bumping? A. Yes, a little.

Q. Can you tell what interval there would be between when you would notice any such thing as a

(Deposition of John Henry.)

bump—was it a rare interval or a short interval?

A. Sometimes she would not bump at all. [429—94]

Q. Would she bump when this swell let her down?

A. Not while the sea was quite smooth.

Q. When the sea was very smooth she would not bump?

A. Well, the swell was on all day, there was no sea, there was a swell.

Q. And when the swell reached the lowest part it would let the vessel down with a bump?

A. For hours she would lie steady and would not bump at all.

Q. When low tide came you could notice it more than high tide?

A. I did not take notice of the tides when I was on the reef.

Q. This state of things continued how long, when you noticed the bumping occasionally?

A. Continued all the time that we were on the reef.

Q. Up to the time she came off? A. Yes.

Q. Before she came off, did you notice any difference in the feel or the sound, with regard to the vessel's contact with the reef? A. No.

Q. No difference? A. No.

Q. Didn't any change of feeling or vibration of the vessel, or sound, attract your attention before she was free of the reef? A. Yes.

Q. What was it?

A. Heavy bump was the first indication of it.

Q. Was it any different sensation of vibration

(Deposition of John Henry.)

from that you had felt prior thereto on Monday?

[430—95]

A. Yes, it was.

Q. Can you describe that?

A. Well, it is a hard thing for me to describe.

Q. There was a change and you recognized it as different—did it attract your attention particularly?

A. Yes.

Q. What did you do as a result of your attention being called to that?

A. I was down in the cabin at the time I felt that bump and that was after eleven o'clock and I immediately went on deck.

Q. Was anyone with you? A. Yes.

Q. Who? A. Captain Miller and the pilot.

Q. Pilot Macaulay? A. Yes.

Q. And you noticed that bump?

A. Yes, I did.

Q. Then what did you do? A. I went on deck.

Q. What did you do there?

A. I had a look around to see if she was moving any, and at that time I could not see any change in her.

Q. Did you have any range lights before you went in the cabin? A. Yes, I did.

Q. Did you observe those range lights when you came out of the cabin? A. Yes.

Q. Had she moved any? A. No. [431—96]

Q. After that you noticed she had not moved?

A. Yes, I noticed.

Q. And I understand you to say that when you came out of the cabin she had not moved at all?

(Deposition of John Henry.)

A. Not by the range lights.

Q. How long had you been in that cabin?

A. I don't know; about ten minutes or so.

Q. Not longer? A. Perhaps not that.

Q. Not fifteen?

A. No, I would not say fifteen.

Q. How long before you went in the cabin had you observed your range lights to determine whether or not she had moved seaward or landward?

A. Just before I went down.

Q. Then when you say she had not moved you are positive and it is not an estimate—that you can say positively that she had not moved between the time you left the deck and went into the cabin and came out and noticed your range lights?

A. Not to my range lights, she had not.

Q. What range lights were these that you used?

A. The two white lights on the shore but which lights they were I don't know, but there was two lights in one, white lights, in one line.

Q. And can you estimate how far away from the ship the first light was?

A. I suppose it would be about two miles; that is only approximately.

Q. And the second light, can you give us any idea how far back of the first light that second light was?

A. I have no idea. [432—97]

Q. Can you say whether or not your range lights were accurate—you will acknowledge that when the range lights are far away from the vessel and close together they would not be a very accurate determination of your position?

(Deposition of John Henry.)

A. It depends what distance they were apart.

Q. If the range lights were close together, and they were two miles away from the boat they would not be a very accurate determination of how much you had moved?

A. If they were close together they would not be very accurate.

Q. Do you know whether they were close together?

A. They were not close together; I could see a good distance between them, but the distance I cannot say.

Q. The harbor lights on the buoys in the harbor were much nearer than your nearest range?

A. Yes.

Q. About half a mile away. A. About that; yes.

Q. And this first light that you mentioned was far beyond the harbor lights? A. Behind it; yes.

Q. Then can you say from these range lights whether or not that vessel had moved a few feet—are you safe in saying that she had not moved anything when your range lights are far from your vessel?

A. At two miles I do not think it is a great distance for range lights.

Q. Well, are you safe in saying that the vessel had not moved with a range light the nearest of which was two miles off—is it an accurate range for short distances?

A. Well, I don't say whether it is or not. [433—
98]

Q. You could not say? A. No.

Q. Could you determine whether or not your ves-

(Deposition of John Henry.)

sel had moved twenty-five feet if you occupied the same position on the "Celtic Chief" and sighted along your range lights? A. Yes, I could tell.

Q. Could you tell whether she had moved fifteen feet? A. Yes, I could.

Q. Ten feet? A. Yes.

Q. Five feet?

A. I won't say about five feet.

Q. These lights that you have mentioned are beam of your vessel, are they not?

A. About abeam, yes.

Q. On which side? A. The starboard side.

Q. Towards Honolulu, towards the channel?

A. Towards Honolulu, yes.

Q. When you made your observation before you went in the cabin what part of the ship were you?

A. On the poop deck in the after part of the ship.

Q. What mark did you take upon the ship to determine your position on the ship?

A. Which mark did I take?

Q. Yes. A. By the stanchion on the poop rail.

Q. And you observed along these ranges, the nearest one being two miles off?

A. About two miles; I could not tell the distance.

Q. And when you came from the cabin and observed again [434-99] did you sight along this stanchion again? A. Yes, I did.

Q. And you observed that there was no motion whatever? A. No motion; no.

Q. Now, when you came out of the cabin after you had gone in as you say, what did you do first?

A. What did I do first?

(Deposition of John Henry.)

Q. Yes.

A. Went to see if the vessel had moved.

Q. Went to the stanchion and sighted on the lights? A. Yes.

Q. Was there anything said or done by Captain Miller or Captain Macaulay when you came out?

A. That I do not know.

Q. You did not hear anything?

A. I did not hear anything.

Q. Did you come out last?

A. I was out of the cabin first.

Q. And left who in the cabin?

A. I suppose they came after me but I cannot say.

Q. And then after you who came?

A. I cannot tell that; I did not look.

Q. You left Captain Macaulay and Captain Miller in the cabin when you came?

A. They were coming behind me but who was first I do not know.

Q. From this change of motion or change of vibration that you noticed in the cabin you thought there was some change in the condition of the ship, didn't you? A. Yes, I did.

Q. And you went out of the cabin and took your position at the stanchion to look at your range lights? [435—100] A. Yes.

Q. Didn't you do that to ascertain whether or not she had moved? A. Yes.

Q. If the ship moved as much as five feet you could feel the vibration, could you not—if the ship had moved on the reef four or five feet you would feel the vibration?

(Deposition of John Henry.)

A. I may have done and I may not.

Q. Well, you felt some different kind of vibration than that caused by the swell?

A. Yes, I felt heavier bumping.

Q. And that caused you to go out of the cabin?

A. Yes.

Q. And when you got to the range lights you say there was no change?

A. Yes, that is right; no change.

Q. What was said by Captain Macaulay immediately after?

By Mr. OLSON.—OBJECTION, on the ground that it is hearsay.

By Mr. LEWIS.—I make the same OBJECTION.

By Mr. LEWIS.—I make the same objection.
(QUESTION WITHDRAWN.)

(By Mr. WEAVER.)

Q. When you were down in the cabin and this vibration that attracted your attention occurred didn't Captain Macaulay exclaim, "My God, she is afloat"?

By Mr. OLSON.—OBJECTION, on the ground that it is hearsay.

By Mr. LEWIS.—I make the same OBJECTION, and that it is incompetent, irrelevant and immaterial.

[436—101]

By Mr. OLSON.—I join in the latter ground.

By Mr. LEWIS.—As well as hearsay.

A. (By WITNESS.) I do not know what he said.

(By Mr. WEAVER.)

Q. What was the occasion of your going down into the cabin? A. To get a little lunch.

(Deposition of John Henry.)

Q. With Captain Macaulay and Captain Miller?

A. Yes.

Q. And what were you doing down there?

A. What were we doing down there?

Q. Yes, were you eating lunch? A. Yes.

Q. And were not paying particular attention to the vessel at that time were you?

A. Any fresh movement in her I did take notice of.

Q. Any fresh movement you would notice but the ordinary movement would not particularly attract your attention?

A. Any movement at all would attract my attention at that time.

Q. Now, just prior to going into the cabin at that time to get that lunch, what was the condition of the lines of the cruiser "Arcona"?

A. They were tight at that time as I noticed them.

Q. How tight?

A. They were right straight out of the water.

Q. They were out of the water, not sagging?

A. What is that? [437—102]

Q. The bight was not in the water?

A. Not at that time.

Q. Do you know whether or not the cruiser was moving her propeller? A. That I cannot say.

Q. How did you see the cruiser's lines?

A. How did I see?

Q. What was the light?

A. The search-light was on and I could see them before the search-light was put on.

Q. How?

A. From the parts where they were made fast.

(Deposition of John Henry.)

Q. From the parts on the "Celtic Chief"?

A. Yes.

Q. When there was no search-light, before the search-light came on what was the light?

A. There were various lights there.

Q. Was it a moonlight night? A. I cannot say.

Q. Was it a dark night? A. No.

Q. Was it a cloudy night? A. No, it was not.

Q. Was it a bright night with starlight?

A. Yes, I believe so.

Q. Could you see the two lines of the cruiser to the "Celtic Chief" before the search-light came on?

A. Not right along to the ship.

Q. Not what?

A. Not right to the ship. [438—103]

Q. How far could you see them?

A. I could see a good distance.

Q. From your ship to the cruiser? A. Yes.

Q. Could you tell whether or not those lines were in the water? A. Yes, I could.

Q. Were not those lines at least one thousand feet?

A. Yes, I daresay they would be that. I said yesterday these lines were approximately one hundred and fifty fathoms.

Q. You mean one hundred and fifty fathoms?

A. Yes, that is right.

Q. And you could not tell whether or not the bight of that line was in the water?

A. Not right along; no.

Q. But after the search-light came on you could?

A. Certainly; yes.

Q. How long before you went in the cabin did the

(Deposition of John Henry.)

search-light come on?

A. It was, say, about an hour and a half, but when it came on I cannot say, but it was an hour and a half before we went in the cabin, but when it first came on I cannot say.

Q. And when you were down in the cabin where was the captain of the cruiser?

A. He was aboard the ship "Celtic Chief."

Q. When did he go back—or did he go back at all?

A. Yes.

Q. When? A. After the vessel started to move.

Q. Did he go back after you had cut loose from the Inter-Island steamers or before? [439—104]

A. Before we cut loose.

Q. Didn't you cut loose from the Inter-Island steamers immediately upon coming off the reef?

A. Yes, when the vessel was afloat we cut them.

Q. How long from the time you came out of the cabin and you cut loose from the Inter-Island steamers? (WITHDRAWN.)

Q. How long was it between the time you came out of the cabin and the time you cut loose from the Inter-Island steamers?

A. I would say about an hour; I cannot say exactly.

Q. One hour? A. Yes.

Q. Was it not a very few minutes?

A. No, I am sure it was not.

Q. Was it not about five minutes? A. No.

Q. You are sure of that? A. Yes, sure of it.

Q. It took fully an hour?

(Deposition of John Henry.)

A. Approximately about that.

Q. Was there time for the captain of the cruiser to leave the "Celtic Chief" and go upon his steamer before you cut the lines of the Inter-Island vessels?

A. Yes.

Q. And where was the executive officer when you came out of the cabin this time?

A. On the poop deck.

Q. How long was he there after you came out?

A. After we came off the reef.

Q. After you came out of the cabin how long was he there? [440—105]

A. I could not say; he went aboard his own ship after we got afloat.

Q. He stayed until you were afloat? A. Yes.

Q. And he stayed until after you cut the lines of the Inter-Island vessels? A. Yes.

Q. Where was the captain of the cruiser when you came out of the cabin?

A. He was on the poop deck.

Q. And was he there all the time up to the time he left the vessel?

A. Yes, up to the time he left.

Q. Where was the executive officer?

A. I cannot say, but he was on the poop deck somewhere.

Q. He was on the poop deck somewhere?

A. Yes.

Q. Was he with captain or on a separate part of the deck?

A. Sometimes they were together and sometimes they were not.

(Deposition of John Henry.)

Q. When you first came out where did you see them?

A. I did not see the executive officer at that time; I saw the captain.

Q. When did you notice the executive officer?

A. It may have been some time afterwards but I cannot say how much it was; I don't know.

Q. Did you have any arrangement with any officer of the cruiser for signals when they should begin to pull? A. Yes. [441—106]

Q. What was that? A. That I cannot say.

Q. You had some arrangements?

A. There was an arrangement; yes.

Q. Well, who did know if you don't know? You were the captain of the "Celtic Chief" and there was some arrangement.

A. I knew at the time what they were but I have forgotten them.

Q. Well, let me refresh your mind; was not there an arrangement by which the cruiser sent a seaman aboard with an officer, and that seaman was to shoot off a piston with lights? A. Yes, stars.

Q. And was it not arranged that one light should indicate "move ahead slowly," or "Prepare," or something of that kind?

A. There was something like that.

Q. And two lights was to go ahead? A. Yes.

Q. And three lights to go ahead full speed?

A. Three the ship was afloat.

Q. Three stars was to move ahead full speed?

A. Three, that the ship was afloat.

Q. What was done after you came out of the cabin

(Deposition of John Henry.)

about those signals? A. Nothing at that time.

Q. How long after you came out of the cabin were the signals made?

A. I cannot say; about twenty minutes to half an hour.

Q. What were those signals?

A. What were those signals? [442—107]

Q. Yes, what was the first signal?

A. One shot.

Q. Was it made? A. Certainly.

Q. Is it not a fact that the only signal made was not a one signal? A. I beg your pardon?

Q. Is it not a fact that there was no one star signal given? A. No, it is not a fact.

Q. How many signals were given?

A. There was three.

Q. All three? A. Yes.

Q. One star signal and then after that a two star signal? A. Yes.

Q. And after that a three star signal?

A. Yes, all three were given.

Q. And what were the intervals?

A. Not much time between them.

Q. Well, were they simultaneously, that is, shot off one, two and three? A. No.

Q. Was it done deliberately, a separate signal?

A. Yes, separate signal.

Q. What was the interval between the one star signal and the two star signal?

A. That I cannot say.

Q. Was it one minute or five minutes?

A. More than five minutes. [443—108]

(Deposition of John Henry.)

Q. Perhaps ten minutes between the first and second signal? A. Between five and ten minutes.

Q. When the first signal was given, one star, what, if anything, was done by that cruiser?

A. That I cannot say.

Q. And when the second star signal was given what, if anything, was done by the cruiser?

A. I cannot say; I was on board my own ship and did not see what was going on aboard the cruiser.

Q. Well, there was a search-light on the whole apparatus from the cruiser to your boat?

A. I could not see fore and aft the cruiser.

Q. You saw these lines? A. Yes.

Q. How far did you see those lines?

A. Right to the stern of the cruiser.

Q. Cannot you tell from the lines whether or not the cruiser was doing anything?

By Mr. OLSON.—OBJECTION, on the ground that it has been asked and answered, the captain has already testified that the lines were taut all the time.

(By Mr. WEAVER.)

Q. He said he could not see them?

A. I did not; I said that I could see the lines.

(At 10:05 A. M. a recess was taken until 10:15.)

Q. Could you tell whether or not those lines were hanging with the bight in the water?

A. If they had been hanging I could have seen it.

[444—109]

Q. You could have seen it?

A. Yes, at the time you mention.

Q. At the time you had cut loose from the Inter-Island vessels?

(Deposition of John Henry.)

A. At the time we cut loose from the Inter-Island vessels that is not the time you asked me; you asked before that.

Q. From the time you came out of the cabin to the time you cut loose from the Inter-Island vessels you could see the two lines of the cruiser all the time?

A. Yes.

Q. And were they equally taut all the time?

A. No, not all the time; when the vessel started to move they would get slack, but they would tighten up.

Q. When the "Celtic Chief" started to move?

A. Yes, that is so.

Q. Did you when you came out of the cabin observe the line of the Miller Salvage Company?

A. Yes, shortly after I came out of the cabin.

Q. Well, of course, it was afterwards.

A. I took the bearings of those range lights first.

Q. You saw the range lights? A. Yes.

Q. And that indicated to you what?

A. That it was a bit slack, the Miller Salvage Company.

Q. What line do you mean?

A. The Miller Salvage Company line.

Q. Do you know what was done then when the line was a bit slack?

A. They started to heave on the luff tackles.

Q. Did you make any remark at that time about what conclusion you drew from those conditions?

[445—110] A. No, I did not.

Q. Did you after that observe your range lights again? A. Yes.

Q. What did you observe?

(Deposition of John Henry.)

A. They were shifting gradually, opening out gradually.

Q. That meant to you what?

A. That the ship had started to move.

Q. Did you not make a remark to the effect that the Miller Salvage Company's anchor was coming home? A. No, I did not.

Q. Where was the executive officer of the cruiser and the captain of the cruiser just prior to your going down into the cabin to take this lunch?

A. They were on the after end of the poop deck.

Q. Where was Captain Haglund?

A. That I cannot say; I did not see him.

Q. Was he aboard at that time?

A. I did not see Captain Haglund until the vessel was started.

Q. Did you leave the Captain and executive officer of the cruiser on the poop deck and go into your cabin to lunch? A. Yes.

Q. You did not invite them to lunch then?

A. Yes, I did.

Q. What signals had you arranged with the Inter-Island steamers as to pulling?

A. There was one light up in the rigging from dark, shortly, after dark; one red light.

Q. One red light in the rigging shortly after dark, what did that mean? [446—111]

A. That the vessels were to pull steady.

Q. One red light? A. Yes.

Q. Was there any other signals?

A. Yes, there was a signal made later on; another red light put up.

(Deposition of John Henry.)

Q. A second red light beside it or under it or where?

A. Either under or above it; it did not matter.

Q. What was the position?

A. One red light over the other.

Q. What did that mean? A. Go full speed.

Q. Did you put up that signal at any time after you came out of the cabin? A. No, we did not.

Q. Did you cause it to be put up?

A. I did. Before I went in the cabin; before eleven o'clock.

Q. Before eleven o'clock and before you went in the cabin—are you sure of that? A. Yes, I am.

Q. Did you order it done? A. Yes.

Q. Did you see it done?

A. Yes, saw the second mate put it up.

Q. Before you went into the cabin to get the lunch?

A. Yes.

Q. As a result of that did you notice anything with regard to the Inter-Island lines? A. No, I did not.

Q. Was there any arrangements, Captain, with the [447—112] cruiser's officers or with the Inter-Island officers, or any of them, about when you should make an effort to get this boat off?

A. Yes, about high water, I believe so.

Q. When was high water to occur?

A. About two o'clock.

Q. In the morning?

A. Yes, between one and two.

Q. And when you went down in the cabin it was about what time? A. After eleven o'clock.

Q. Well, now, why did you make the red-light sig-

(Deposition of John Henry.)

nal to the steamers to pull at eleven when you had ar-
ranged to make an effort at about high water?

A. It was the pilot's idea to put the other light up.

Q. Did the pilot tell you to put that light up?

A. Yes.

Q. Before you went in the cabin? A. Yes.

Q. And that meant that the Inter-Island boats
should all start pulling then? A. Yes.

Q. Do you know whether Captain Macaulay was
there when the light was put up?

A. I believe he was on the poop deck somewhere.

Q. With you? A. I did not say he was with me.

Q. Did he take any part in ordering that light up,
having the order executed?

A. No, I had the order executed.

Q. He did not order the light to be put up? [448
—113] A. No.

Q. What do you mean by saying it was the pilot's
idea? A. He told me that we should put it up.

Q. And then you ordered it up? A. Yes.

Q. At that time before you went in the cabin?

A. Yes.

Q. Was the pilot there then when you ordered it
up, was he present right there with you?

A. He was not right with me; he was near it.

Q. On the poop deck?

A. Somewhere on the poop deck; yes.

Q. Did you give the order in a tone of voice that
he could hear?

A. I do not know whether he heard or not.

Q. Well, you could give the order secretly to an
officer or in an ordinary tone of voice; which was it?

(Deposition of John Henry.)

A. I gave it in an ordinary tone of voice.

Q. That he could hear if he was standing near by?

A. I do not know whether he was standing near by.

Q. You don't know? A. No, I cannot say.

Q. Well, he suggested this idea to you and after he suggested this idea how long was it before you gave the order and had it executed?

A. I gave the order right away, shortly afterwards.

Q. There was no interval of wait to let Captain Macaulay move away and then your giving the order and his not hearing it?

A. I had to call the second mate before I gave him my order to get the light put up. [449—114]

Q. And you gave it in an ordinary tone of voice so that Captain Macaulay could hear it?

A. I gave it in an ordinary tone of voice.

Q. Well, when you gave this order—when Captain Macaulay suggested this to you what did he say, what did Captain Macaulay say to you when he suggested it, what were the words he used?

A. I cannot exactly say but they were to the effect that we might put the red light up for the Inter-Island boats to start pulling.

Q. And as a result what order did you give your second mate?

A. I gave him the order to put the other light up in the rigging; the other red light.

Q. Did you tell him how to put it up?

A. He knew how without being told, they had been put up every night.

Q. And when the red lights went up they were to

(Deposition of John Henry.)

start pulling? A. Yes, that is so.

Q. Was there any other signal about pulling, except two red lights and the stars?

A. No other signals.

Q. Did that two red lights mean pull ahead full speed or merely to start pulling?

A. I believe full speed was the arrangement.

Q. They were to use what force they had at that time, not merely to start pulling?

A. Not merely to start pulling; no.

Q. On prior nights when you put up the signal of two red lights to start pulling was there any particular time of [450—115] night you would set up the signals with regard to tide?

A. When it was coming on to high tide that was the time it was put up.

Q. How long before high tide?

A. That I cannot tell.

Q. Well, this time it was three hours before high tide—did you do the same thing the nights before?

A. Yes, the nights before it was done too.

Q. And did they pull on Tuesday night, say?

A. On Tuesday night?

Q. Yes.

A. Well, the lights were there for them to pull but I don't know whether they pulled or not.

Q. Well, you can see these cables or lines?

A. Well, as I said before, there was times when the line was in the water and times when it was out of the water. I never saw any difference with their hawsers whether the lights were up or not.

Q. If you were looking at these lines could you not

(Deposition of John Henry.)

tell what they were doing by observation of them as they came aboard your ship, could not you tell whether some force was being exerted or not?

A. As they came aboard my ship?

Q. Yes, you could observe those and the condition of them? A. Yes.

Q. That told you whether there was power exerted, didn't it? A. Well, it would, yes.

Q. Well, on Tuesday night were not those vessels exerting power on your vessel? [451—116]

A. Yes, to some extent.

Q. Well, how much? A. I cannot tell.

Q. Well, a little power or a great deal of power?

A. I do not know what power they had on; I could not say how much power they had on.

Q. What did you do to find out?

A. I think I stated that before.

Q. Well, what did you do?

A. Stamped them down with my foot.

Q. And didn't you find they were taut?

A. At times they were and at times they were not.

Q. When you had those two red lights up to pull ahead, were they not pulling?

A. I don't know; they were the same as before when the red lights were not up.

Q. No difference between the time the lights were up and the time the lights were down?

A. I could not see any.

Q. Did the vessel move off any on Tuesday?

A. Tuesday not at all.

Q. How do you know that?

A. I could see that she did not.

(Deposition of John Henry.)

Q. By these range lights?

A. I could not see any range lights.

Q. On Tuesday night did you have any range lights? A. Yes.

Q. On Tuesday night did the vessel move either way, seaward or landward, from your range lights?

A. Not that I could tell.

Q. On Monday did the vessel move seaward or landward— [452—117] judging from your range lights or ranges? A. Not that I could tell.

Q. Did you have any day ranges? A. Yes.

Q. On Monday and Tuesday? A. Yes.

Q. Did that vessel move in either direction on Monday or Tuesday? A. That I cannot say.

Q. Did you see your ranges?

A. By the ranges she was in the same position, or about the same.

Q. And you could not say from the ranges whether she was moving one way or the other?

A. If she was moving one way or the other way much I could have told, but by the depth of the water she did not move any.

Q. You had soundings? A. Yes, we did.

Q. How deep was the water there?

A. Three and a quarter fathoms all round.

Q. What day did the "Mauna Kea" part the twelve inch hawser? A. Monday.

Q. At that time was she exerting power on you?

A. Yes, I suppose so.

Q. Did she move your vessel? A. No.

Q. When this cruiser "Arcona" parted that steel hawser did she move your vessel?

(Deposition of John Henry.)

A. No, I don't think so. [453—118]

Q. How many other vessels were pulling on your vessel when the steel hawser to the cruiser parted?

A. Three.

Q. And was your vessel moved any? A. No.

Q. Did you feel any of that vibration that you spoke of that you first felt when you were down in the cabin eating that lunch?

A. She was bumping at times.

Q. The ordinary bumping of the swell?

A. Well, I don't know whether it was the swell or not.

Q. You have spoken of the dented plate in your vessel. Tell us what that was.

A. How could I tell that?

Q. What is the condition of the plate that you spoke of—how large was it dented and what is the appearance of it?

A. About an inch—the place was dented about an inch. Less in some places.

Q. How far did this change of the normal level of the hull extend, if it was dented an inch—what do you mean by it? Describe it.

A. I cannot describe the plates because I have never seen them.

Q. How do you know it was dented an inch?

A. The report of the diver.

Q. Can you see it from the inside of the vessel?

A. Cannot see any dents.

Q. Is she steel? A. No.

Q. What is she? A. Iron. [454—119]

Q. An iron ship? A. Yes.

(Deposition of John Henry.)

Q. What is her length?

A. Two hundred and sixty-six feet and eight-tenths.

Q. What is the breadth?

By Mr. WEAVER.—I move that we strike out the evidence as to the dented plate.

By Mr. LEWIS.—I object to that; it was called for by your own question.

By Mr. MAGOON.—We move this on the ground that it is hearsay.

A. (By WITNESS.) Thirty-nine feet five inches.

(By Mr. WEAVER.)

Q. And the depth?

A. Twenty-two feet three inches.

Q. What is the tonnage?

A. One thousand seven hundred and nine tons net.

Q. Do you know what the gross tonnage is?

A. One thousand seven hundred and eighty-nine.

Q. What is the ship's number?

A. 91,072, I think, but I won't be certain.

Q. You think that is it?

A. Yes. My register and log-books are all ashore.

Q. Where are your ship's papers?

A. At the consul's; the register is there.

Q. Will you produce the ship's papers?

A. I cannot draw them from the consul until my ship is ready to leave.

Q. They are in control of the consul now?

A. Yes.

Q. Do you know when they are to be given to you?

(Deposition of John Henry.)

A. When the ship is ready for sailing.

Q. I ask you if you cannot obtain from the consul permission [455—120] to use these papers, to take these papers to exhibit here before the commissioner so that they may be inspected and returned to the consul?

By Mr. OLSON.—OBJECTION, on the ground that it is just as easily accessible to counsel as it is to the captain; they are in control of the British Consul and he is just as available to counsel.

By Mr. LEWIS.—Well, I ask at this time of counsel for the ship that he will enter into an arrangement with either counsel whereby we can get an inspection of the ship's papers.

By Mr. OLSON.—Yes, I am agreeable to that.

A. (By WITNESS.) I do not think the consul will give the papers up, as he has no right to give the ship's papers up.

(By Mr. WEAVER.)

Q. What is the value of this ship?

A. That I cannot say.

Q. You don't know what she cost?

A. No, I do not.

Q. How old is she?

A. She was built in 1885.

Q. Where? A. Dumbarton.

Q. What class is she?

A. She is classed A-1 at Lloyds.

Q. A-1 iron ship? A. Yes, A-1 iron ship.

Q. Do you own any interest in her?

A. What? [456—121]

Q. Do you own any interest in her?

(Deposition of John Henry.)

A. No, I do not.

Q. What was the date of her last survey?

A. She was surveyed in Port Talbot.

Q. When?

A. Two years ago; two years in June.

Q. When was this classification of A-1 made?

A. That I cannot say.

Q. Is the boat kept in first-class condition at the present time? A. Yes, she is.

Q. And before she went on the reef was she in first-class condition? A. Yes, she was.

Q. Kept up in all respects?

A. Kept up in all respects; yes.

Q. Do you know the value of this cargo?

By Mr. OLSON.—OBJECTION, on the ground that the witness is not qualified to answer and has not been qualified as an expert.

(By Mr. WEAVER.)

Q. Do you know anything about the value of the cargo of nitrates? A. Nothing whatever.

Q. Do you know the invoice value?

A. No, I do not.

(By Mr. MAGOON—to Mr. OLSON.)

Q. Do you refuse to produce the invoice of the cargo and the value of the ship?

(By Mr. OLSON.)

A. I take it that the record shows that it is for [457—122] counsel who desires to prove the value of the ship and cargo, to prove by proper and regular evidence. I do not recognize that the invoice of the cargo is a proof of the value of the cargo.

(By Mr. MAGOON—to Witness.)

(Deposition of John Henry.)

Q. Have you got the invoice of that cargo?

A. No, I have not.

Q. Did you ever have it? A. No, I did not.

Q. Never had it in your possession?

A. No.

Q. And have you got any document in your possession or have you ever had in your possession any document which gives the value of the ship?

A. No.

(By Mr. WEAVER.)

Q. You have stated that the "Celtic Chief" came off the reef about twelve o'clock or twelve-twenty—how do you fix that time?

By Mr. LEWIS.—OBJECTION, on the ground that it is incompetent, irrelevant and immaterial, and a misstatement of the witness' testimony. He did not say she came off at twelve o'clock.

By Mr. WEAVER.—His testimony was that she was float at twelve-twenty, and not off the reef at twelve o'clock, and she was afloat at twelve-twenty.

By Mr. LEWIS.—I object to the question.
(Question withdrawn.)

(By Mr. WEAVER.)

Q. (To WITNESS.) You have answered in effect that the "Celtic Chief" was float at twelve-twenty o'clock on the [458—123] morning of Thursday and not off the reef at twelve o'clock of the morning of Thursday—how do you fix that time?

A. By the time on the ship.

Q. And when did you observe the time by the time of the ship—when did you notice the time, did you have a watch on at that time?

(Deposition of John Henry.)

A. I had a watch with me all the time and another clock in the chart-room.

Q. Please tell me when you looked at the watch when you observed that the boat was afloat.

A. Maybe it was a few minutes before twelve o'clock I observed my watch; she was not off the reef then.

Q. Was Captain Macaulay near you when this boat was afloat, when she first came off?

A. I don't know where he was.

Q. Were you together when this boat came off, about that time? A. When she came off the reef?

Q. Yes.

A. I cannot say who was near me or who was not.

Q. Don't know who was near by? A. No.

Q. Were not you talking with him at the time?

A. The pilot?

Q. Yes. A. Not that I remember.

Q. You and he were not close together talking to each other at that time? A. Not that I remember.

Q. When did you study the time—didn't you look at your watch as soon as you noticed the boat was afloat? [459—124]

A. Not exactly but a few minutes after I did when I knew she was afloat.

Q. And that was what time?

A. About twenty past twelve.

Q. What do you mean by a few minutes—one minute or ten minutes?

A. Just one or two minutes.

Q. Then you observed your watch within a minute or two of the time that the boat was afloat, and that

(Deposition of John Henry.)

was twelve-twenty—is that right?

A. That the boat was float.

Q. Yes.

A. Yes; I cannot be sure for a few minutes either one way or the other.

Q. Did Captain Macaulay look at his watch at that time?

A. I don't know anything about that; I was looking after my own interests and not Captain Macaulay.

Q. Where were you standing when the boat came off?

A. The starboard side of the poop deck.

Q. Was Captain Macaulay standing by you or not?

A. There was lots of people around there.

Q. Well, you saw whether or not Captain Macaulay was on the poop deck at that time?

A. He was there but I cannot say where.

Q. He was there at that time? A. Yes.

Q. And you don't remember his making any remark at the time the boat came off?

A. No, I do not.

Q. Going back to the value of the vessel, you have made [460—125] an answer here denying that the "Celtic Chief" was worth fifty thousand dollars. Now, if she was not worth fifty thousand dollars what was she worth?

By Mr. OLSON.—OBJECTION, on the ground that the witness has not qualified to testify as to value.
(By Mr. WEAVER.)

Q. Why do you say she was not worth fifty thousand dollars?

(Deposition of John Henry.)

By Mr. OLSON.—OBJECTION, on the ground that it is incompetent, irrelevant and immaterial, and that it is not an allegation and therefore the verification is not a statement as to what her value is.

A. (By WITNESS.) Simply because the vessel is not worth fifty thousand dollars.

(By Mr. WEAVER.)

Q. You know that of your own personal knowledge?

By Mr. OLSON.—OBJECTION, on the ground that the witness is not qualified to answer.

(By Mr. WEAVER.)

Q. Did you obtain any information from the crew or other parties engaged in the salvage operations, or officers of your vessel, or any other vessel, about the value?

A. They could not tell the value of the ship any more than I could.

Q. Did you get this information from anyone on which you base your allegation that the ship was not worth fifty thousand dollars?

By Mr. OLSON.—OBJECTION, on the ground it is incompetent, irrelevant [461—126] and immaterial.

(By Mr. WEAVER.)

Q. Well, did you make this allegation through personal knowledge, or which is it?

A. Yes, from personal knowledge that I have had with ships.

Q. How long have you—have you ever owned any ships? A. What?

Q. Have you ever owned iron ships? A. No.

(Deposition of John Henry.)

Q. Or any ships? A. No.

Q. Have you ever owned any interest in any ship?
A. No.

Q. Have you ever built ships? A. No.

Q. Have you had experience appraising ships?
A. No.

Q. How do you make this allegation that she is not worth fifty thousand dollars?

A. By own experience.

Q. You have had experience and can estimate the value of a ship?

A. By what I see other ships sold for in the market.

Q. Then, Captain, you have made the statement here on your oath that this vessel is not worth fifty thousand dollars?

By Mr. OLSON.—OBJECTION, on the ground that it is incorrectly stating the facts. The answer of the claimant is that he denies that it [462—127] is worth fifty thousand dollars, and that is—

(Question Withdrawn.)

(By Mr. WEAVER.)

Q. You deny then that the "Celtic Chief" was or now is of the value of fifty thousand dollars?

A. Yes, quite so.

Q. And you are willing to make that statement now?

A. I won't make any statement now or swear to it.

Q. Won't answer?

By Mr. OLSON.—OBJECTION, on the ground that the witness is not qualified to answer as an expert as to value.

(Deposition of John Henry.)

(By Mr. WEAVER.)

Q. Was the wire which was used by the Miller Salvage Company a larger or smaller line or of the same size as that used by the cruiser?

A. That I cannot tell; I did not see the wire aboard the ship; it was outside my ship when I saw it; the wire never was aboard my ship.

Q. Well, you say that the wire never was aboard your ship?

A. The wire attached to his anchor was never aboard my ship.

Q. How was that cable or wire of the Miller Salvage Company attached to the hawser aboard your ship, that you have mentioned?

A. It was to the hawser.

Q. Was it not attached to the wire?

A. Attached to a manila hawser.

Q. Was it shackled on? [463—128]

A. That I cannot say.

Q. Could not you see whether it was?

A. It was dark at that time.

Q. Was it dark before they got it shackled on?

A. It was shackled on before ever the anchor was dropped, I suppose; before ever it was let go.

Q. Was the hawser brought aboard your ship and the hawser hove taut before dark? A. Yes.

Q. How far away was this cable from your ship, the end of the steel cable from the "Celtic Chief"?

A. That I cannot say.

Q. Was it not some twenty or fifty feet?

A. I daresay about that; yes.

Q. You were on the poop deck during that even-

(Deposition of John Henry.)

ing? A. Yes.

Q. Before dark? A. Yes.

Q. And could not you see from the poop deck the cables?

A. I did not take notice of it at the time whether it was shackled on or not.

Q. But there was a hawser running from the deck of the "Celtic Chief" over to this wire cable?

A. Yes.

Q. What else was there besides the hawser running to the cable from the "Celtic Chief"?

A. After it was hove in there was a piece of wire, three and a half inch wire, I think it was, rove through the shackle, rove through the eye of the shackle, or somewhere.

Q. Then there was a two-part three and a half steel wire running from the "Celtic Chief" out and back to the "Celtic [464—129] Chief"? A. Yes.

Q. It went to the cable at any rate and back again?

A. Yes.

Q. And when the Miller Salvage Company was hove taut with this hawser and this two-part steel tackle it tended to bring the cable towards the "Celtic Chief"? A. Yes, when it was hove.

Q. You don't know that was brought aboard?

A. What was brought aboard?

Q. That steel cable, do you know whether it was brought aboard?

A. I believe it was brought aboard, yes; but I cannot say for certain.

Q. When they hove taut finally the cable was brought aboard?

(Deposition of John Henry.)

A. The cable was brought aboard after twelve o'clock; after the ship was started, the wire cable.

Q. After the ship was started, where was this shackle, on board your ship or outboard?

A. Whether it was an eye or a shackle, I don't know.

Q. Well, the end of the cable of the Miller Salvage Company? A. It was aboard the ship then.

Q. Do you remember the end of this cable, whether it was a shackle or an eye, getting jammed in the chock?

A. There was something jammed in the chock; yes, that is right.

Q. Was not there some difficulty in getting it loose?

A. No, it was struck with a capstan bar and knocked loose. [465—130]

Q. And there was considerable disturbance there at that time because you could not get it loose?

A. No, no disturbance.

Q. You had to hurry this matter in throwing the end of the cable overboard, to get out of trouble?

A. Well, they had not to hurry; they had to attend to the rest of the lines.

Q. The cruiser was pulling and the "Celtic Chief" was following and you had to get this cable of the Miller Salvage Company out of the way as quick as you could? A. Yes.

Q. And the shackle got foul in the chock?

A. It was jammed for a second or two, that is all.

Q. And things were moving at that time?

A. The ship was moving.

(Deposition of John Henry.)

Q. There had been a shooting of rockets and starting of steamers and things were excited at that time?

A. No excitement.

Q. You were not excited? A. No.

Q. Was Captain Macauley there?

A. Yes, I believe so.

Q. Was not he excited?

A. I don't know; I was not taking notice of him.

Q. Well, you have said that you had been on duty since Saturday morning up to this Wednesday night, and that you had been down in the cabin only a few minutes; is that right?

(At 10:55 A. M. a recess was taken until 10:60
A. M.)

A. Yes, that is right.

Q. Did you not sleep during that time? [466—
131] A. No, I had no sleep.

Q. You had not even had a "cat-nap," as they call it? A. No, I had not.

Q. Then at this time on Wednesday night how were you feeling in regard to sleep?

A. I was not feeling very good.

Q. A little strained? A. What?

Q. You were a little strained?

By Mr. OLSON.—OBJECTION, on the ground that it is incompetent, irrelevant and immaterial.

A. (By WITNESS.) Yes.

(By Mr. WEAVER.)

Q. In regard to day ranges, I want to ask what ranges you took for locating the position of the vessel on Monday, Tuesday and Wednesday—did you have the same range all the time, the same set of

(Deposition of John Henry.)

ranges for daylight ranges?

A. The same set of ranges for daylight as we had at night?

Q. No, Monday, Tuesday and Wednesday by daylight, did you have the same ranges?

A. Yes, the same ranges.

Q. What were they?

A. Buoys in the entrance to the harbor.

Q. Do you know which one?

A. No, I cannot tell.

Q. A buoy in the harbor and what else?

A. The buoys as you enter the harbor.

Q. Well, there are two sets of buoys, the west side [467—132] and the east side—now, which one did you take for a near range, if it was a near range?

A. The outer buoy for one.

Q. On the west side of the channel?

A. Yes, on the west side of the channel.

Q. What was the other range?

A. The one further away inside.

Q. Another buoy?

A. It was not a buoy; it was a landmark, a chimney.

Q. What was it? A. I don't know.

Q. A house or a tree?

A. A chimney; I took it for a chimney.

Q. How far was that chimney from the buoy?

A. I cannot say.

Q. Was it a mile, half a mile or two miles?

A. About a mile.

Q. Do you know what chimney it was?

A. No, I do not.

(Deposition of John Henry.)

Q. Do you know the Sewer Garbage Department chimney on the beach? A. No, I do not.

Q. What was the color of it?

A. A dirty yellow, I think; it is hard to tell what it was.

Q. Was it a round chimney, was it iron or metal, brick or stone?

A. I don't know whether it was stone, wood or brick, or what it was.

Q. Can you describe it? [468—133]

A. Only a round chimney.

Q. Well, there are all kinds of chimneys. Tell us something about this chimney.

A. I did not take particular notice whether it was round or anything at all about it.

(By Mr. LEWIS.)

Q. Well, I will ask you was it a little chimney of a house or whether it was a chimney that projected up over the houses?

(By Mr. WEAVER.)

Q. Well, was there anything peculiar about this chimney by which you could tell it again?

A. Nothing peculiar about it.

Q. Was it a small brick chimney of a house or was it a tall chimney such as is used for manufacturing establishments?

A. It was a chimney about fifteen or twenty feet round. I took it for a chimney but it might not have been a chimney at all for all I know.

Q. It might have been a church steeple?

A. Yes.

(Deposition of John Henry.)

Q. Fifteen or twenty feet round, and how high was it?

A. I said about twenty or fifteen feet high.

Q. Above the roof of a building?

A. I took it for a building.

Q. What did the building look like?

A. I don't know anything about it.

Q. Did it look like a stone building or a wooden building or what? [469—134]

By Mr. OLSON.—OBJECTION to this line of examination, on the ground that the witness has fully shown that he cannot positively identify the chimney or the beach.

(By Mr. WEAVER.)

Q. What part of the beach from the harbor was this chimney? A. It was off the beach.

Q. What part of the beach from the harbor channel was it—can you estimate how far beyond or eastward of the channel was that part of the beach opposite the chimney?

A. How far the chimney was from the beach?

Q. No, how far was that part of the beach opposite the chimney eastward of the channel into the harbor?

By Mr. OLSON.—OBJECTION, on the ground that it is unintelligible.

A. (By WITNESS.) That I cannot tell.

(By Mr. WEAVER.)

Q. Well, was it half a mile?

A. I don't know I am sure; I have no idea.

Q. Was it a mile?

By Mr. OLSON.—OBJECTION, on the ground that the witness has testified that he does not know.

(Deposition of John Henry.)

(By Mr. WEAVER.)

Q. How far was your rear range beyond the buoy you spoke of as the near range?

A. About a mile, I think I said it was. I cannot say exactly.

Q. From the time the cruiser put her lines on the "Celtic [470—135] Chief" how often did you observe her lines?

A. I did not count it but I observed them a good few times.

Q. Well, you were there on the poop deck nearly all the time and you saw those lines constantly?

A. Not constantly; no.

Q. Well, you saw them every few minutes?

A. Well, I would not say every few minutes, but every now and again.

Q. Every hour?

A. Well, I observed them more than once every hour.

Q. Well, were those lines taut during the daylight hours? A. No.

Q. They were slack? A. Yes.

Q. And when they were slack was the bight in the water of both lines? A. Yes.

Q. And after dark were those lines in the water at all?

A. It was dark before the wires were made fast and she got any weight on them.

Q. Up to the time that the search-lights were put on can you say what condition those lines were in, were they taut or not?

A. They were getting a strain on them.

(Deposition of John Henry.)

Q. Was the bight in the water then?

A. At times they would be and at times they would not be.

Q. Prior to the search-light coming on? [471—
136] A. That is after they were made fast.

Q. And prior to the search-light?

A. I don't know what time the search-light was put on.

Q. Well, up to the time the search-light was on and the time it became dark, could you observe these lines of the cruiser?

A. I could observe them so far along but not right to the cruiser.

Q. Were not the bights of those lines in the water at that time? A. No, not all the time.

Q. Well, what part of the time were they out of the water?

A. They were in the water now and again and then they would be tight, and then they would slacken up again.

Q. How do you account for this condition, that they were tight and slack?

A. Because they were getting an equal strain on both hawsers.

Q. But they had not got it on up to the time of the search-light?

A. Yes, they had an equal strain on before eight o'clock.

Q. They got a strain before eight o'clock?

A. Yes.

Q. And after eight o'clock and up to the time that the search-light went on did you observe those lines?

(Deposition of John Henry.)

A. I did not see them right to the cruiser but from my observation from the ship as far as I could see they were tight. [472—137]

Q. Could you determine from the ship at that time and before the search-lights were turned on whether or not the bights were in the water?

A. No, not in my estimation from what I could see aboard the ship.

Q. Then up to the time that you first noticed these search-lights went on the two cruiser's lines were taut and the bights not in the water, is that what you intend to say? A. Yes, they were not.

Q. Could you see halfway to the cruiser?

A. I beg your pardon?

Q. Could you see halfway to the cruiser after dark and before the search-lights were on?

A. I could not say about halfway but I could see a good distance.

Q. You could not tell whether the bight was in the water?

A. I would not exactly swear to it.

Q. When Captain Miller came aboard did you say anything to him about placing an anchor, where he was to place his anchor?

A. He told me about placing the anchor astern himself.

Q. Didn't you direct him where to put the anchor?

A. Yes, I did.

Q. And did he put it in the line as directed by you?

A. Yes.

Q. Dead astern? A. Yes, dead astern.

Q. You have said that some of the lines used by

(Deposition of John Henry.)

Captain Miller in his work rigging tackle on deck belonged to you—what part of the lines belonged to you out of that outfit? [473—138]

A. I believe there was a steel wire, three blocks and about fifty fathoms of four and a half, four stranded rope, and about thirty or forty fathoms of four and a half inch rope.

Q. Did the Miller Salvage Company people use your steam winch? A. Yes, they did at times.

Q. Did they use it much or little?

A. A good bit.

Q. Did you not interfere with their using it?

A. I did the first time they used it because I did not give instructions for it to be used. No one came and asked me to use the winch and I interfered with them at that time.

Q. Told them not to use it?

A. No, I did not, but I asked them what they were using the winch for, for to heave that tackle tight.

Q. And most of the work was done by hand captain? A. No, it was not.

Q. Do you know what caused the damage to the davits on your boat? A. What?

Q. You have spoken of damage to the davits on the "Celtic Chief," do you know what caused that?

A. Yes.

Q. What was it?

A. One of Captain Miller's schooners.

Q. How was that caused?

A. He got his bowsprit foul coming alongside.

Q. And the swell of the sea caused the vessels to come in contact? [474—139]

(Deposition of John Henry.)

A. He was bringing her alongside at the time but he let the stern swing round and brought the bows of the schooner right between the davits.

Q. And the swell was running at the time?

A. And swell that was would have kept the vessel over and off my ship; if they had looked after her she would not have been able to turn round.

Q. There was a swell running at the time, was there not? A. Not very much; just a little.

Q. Did you have any talk with Captain Miller about whether he should lighter the ship "Celtic Chief" first or whether he should put out an anchor astern first and hold her? A. Quite so; yes.

Q. What did you tell Captain Miller to do and what was done?

A. I asked him if he could get that anchor out.

Q. Did you ask him first to lighter cargo?

A. I did not ask him; I asked him the second time when we were speaking about the anchor.

Q. And he told you, didn't he, that you ought to get an anchor out astern?

A. Yes, and I asked him if he could get that anchor out.

Q. And you asked him to get it? A. Yes.

Q. And he did get it?

A. Not at that time; it was Wednesday morning that the anchor was dropped astern, after eight o'clock.

Q. And it was dropped where you wanted it?

A. It was dropped where I wanted it at that time.

[475—140]

Q. Did Captain Miller do any lightering at all

(Deposition of John Henry.)

after you had told him to get that anchor out?

A. Yes, started lightering right away.

Q. After you told him to get the anchor out—when was this conversation about getting the anchor out?

A. Eight o'clock on Monday morning.

Q. Was it not Tuesday?

A. No, eight o'clock on Monday morning.

Q. Well, didn't you complain to Captain Miller on Tuesday morning that he was not back there lightering the boat? A. Yes.

Q. And was not that the time you told him to get the anchor out? A. No, it was not.

Q. Had you given him any orders to get the anchor out at that time, prior to Tuesday morning?

A. I understood when he left the ship that he was going to get the anchor out and send lighters to the ship at the same time.

Q. On Tuesday morning, then, do I understand you to say you had no conversation with Captain Miller?

A. I never saw him on Tuesday morning.

Q. On Wednesday morning?

A. Yes, on Wednesday morning, I did.

Q. You did not see Captain Miller at all on Tuesday? A. No, I did not.

Q. Wednesday morning you saw him, and what did you say about this lightering and getting out the anchor, if anything?

A. I asked him why he had not the lighters back as he promised on Tuesday morning at 2 o'clock when he left with [476-141] the "James Makee" and he told me he was getting the cargo discharged out

(Deposition of John Henry.)

of the other launches that he had loaded and getting the anchor down into his steamer.

Q. Didn't the Miller Salvage Company boats run a line to you on Tuesday?

A. Tuesday night after nine o'clock, yes.

Q. They got a line to you?

A. I don't know who it was.

Q. Well, there was a line?

A. It was only a small three-inch line.

Q. What time?

A. Somewhere about nine o'clock.

Q. Dark? A. Yes.

Continued Cross-examination by Mr. LEWIS.

Q. Captain Henry, these stars that were shot off on board the "Celtic Chief," on the evening of Wednesday, do you know anything about the color of those stars, whether they were all white or some were red, or anything of that character?

A. I believe they were different colors.

Q. At this time have you any definite recollection of the times that the stars of the various colors were shot off? A. The various times?

Q. Yes, the various times.

A. No, I cannot say.

Q. What I understand you to say is your recollection of the matter is that there were stars of different colors shot off during the evening there, but just the rotation in which [477—142] these stars of various colors were shot off you cannot at this time definitely say—that is correct, is it not?

A. That is correct; I cannot state.

Q. You personally, Captain, did not have anything

(Deposition of John Henry.)

to do with the giving of the orders for shooting off those stars? A. No, I did not.

Q. That was something done by the German officers? A. Yes, that is so.

Q. And as far as that part is concerned you were a spectator?

A. As far as those stars are concerned, yes.

Q. You had nothing to do with the directions of shooting off those stars? A. No.

Q. And what orders were given in regard to the shooting off of those stars were given by the German officers as far as you know? A. Yes.

Q. Relative to the question of soundings which was brought out on cross-examination, you said that there was three and a half fathoms of water all round your vessel? A. Three and a quarter I said.

Q. Now, will you kindly tell me from what portions of the ship these soundings were made? In other words, what was the sounding off her bow—did you take a sounding off her bow?

A. Yes, right round her.

Q. What particular portion of the ship would you designate as the portion where you took your first sounding? A. The first sounding? [478—143]

Q. Yes. For instance was your sounding over the bow near your anchor davit?

A. No; we started on the main deck just abreast of the poop deck.

Q. That is going from aft forward? A. Yes.

Q. Now, begin there and tell me the soundings, defining the soundings by relation to some portion of the side of the ship—in other words, where did you

(Deposition of John Henry.)

take your first sounding aft—beginning aft and going forward?

A. I took it abreast of the forward poop rail.

Q. What was that sounding?

A. Three and a quarter.

Q. Where did you take the next sounding?

A. About abreast of the boat davit.

Q. What was that sounding?

A. Three and a quarter.

Q. Where did you take the next one?

A. Various positions right along the ship.

Q. And it was all the same?

A. Yes, and right round and back round the other side.

Q. What is the draft of your ship?

A. Twenty-one feet aft, and twenty feet ten inches forward.

Q. Twenty-one feet aft and twenty feet ten forward? A. Yes.

Q. What was your ship drawing just prior to the time that you went on the reef?

A. That was my draft of water leaving Hamburg, but what it was when I got here I never had any opportunity to take it. [479—144]

Q. Then, as I understand you, the draft of twenty-one feet aft and twenty-ten forward was the draft of your vessel loaded when you left Hamburg, just prior to your leaving Hamburg?

A. That is right.

Q. You have not any reason to believe that the draft changed at all during the voyage?

A. It would change a little.

(Deposition of John Henry.)

Q. Very slightly? A. Yes.

Q. So that was practically your draft prior to your stranding? A. Yes.

Q. What was the draft of your vessel when you were alongside of the wharf, anchored in the harbor of Honolulu after the stranding?

A. That I could not say. I could not even see the figures on the stem and stern.

Q. Well, didn't you in some way endeavor to find out what you were drawing?

A. No, I did not at that time, the cargo was lightened a good bit; the cargo lightened the ship a good bit.

Q. You say that the cargo that was taken out would lighten it a good bit?

A. Yes, very considerably.

Q. Now, you have testified as to the amount of cargo which was taken out of that ship and you have also given me the draft of that ship prior to the time she went on the reef, now I ask you from your experience as a master mariner, having an intimate knowledge of this ship, which you have testified [480—145] that you have, what in your opinion would be the difference in draft of your vessel before she went on the reef and just after she was pulled off?

By Mr. OLSON.—OBJECTION, on the ground that it is indefinite in that it does not show from what position on the vessel the cargo was lightened, nor the quantity at any particular part of the vessel.

By Mr. LEWIS.—I have endeavored in my question propounded to the witness to include and I now

(Deposition of John Henry.)

include this question.

Q. Your knowledge, taking into consideration your knowledge of the amount of cargo that was taken out of the vessel and the portions of the vessel from which it was taken out?

A. (By WITNESS.) About two feet; eighteen inches to two feet.

(By Mr. LEWIS.)

Q. About two feet?

A. From eighteen inches to two feet.

Q. From your knowledge of your own ship, can you give me or state the corresponding lift or rise in your vessel with the number of tons that you took out?

A. No, I have not got a draft scale.

Q. Well, you know in lightening your ship or in taking out cargo from your ship what your vessel will rise or lower in the water, don't you?

A. Not to say exactly; I cannot tell. If I had a draft scale I could tell, but I have no draft scale aboard the ship.

Q. Can you approximate it? [481—146]

A. I cannot say; about nine or ten tons to the inch. It is generally about that.

Q. Then, as I understand you, your best judgment is that the lightering of the cargo from the "Celtic Chief" while she was on the reef caused her to be raised from eighteen inches to two feet?

A. Quite so; yes.

Continued Cross-examination by Mr. WEAVER.

Q. I would like to ask you how you determined the nature of the bottom under that ship, you said

(Deposition of John Henry.)

you thought she was on a soft bottom—what observation did you make? A. By the lead.

Q. How can you tell by the lead what the bottom is?

A. That is always the way. There is a hole in the lead and you fill that with tallow or any substance that will stick to the bottom and that will give you the nature of the bottom down below.

Q. And is that all you based your observation upon?

A. That is all and by the pilot's saying what the bottom was.

Q. When you sounded each time was your lead armed or prepared with the necessary tallow?

Q. Yes, it was prepared with the necessary tallow.

Q. What did you find when you pulled up the lead?

A. Sand and a kind of shell and broken coral.

Q. And on that you based your observation that it was not a reef but a sandy soft bottom?

A. Yes, and that is what the pilot told me it was.

[482—147]

By Mr. LEWIS.—I MOVE to strike out that portion of the witness' answer in which he says—"That is what the pilot told me it was."

By Mr. MAGOON.—We join in that.

(By Mr. WEAVER.)

Q. What was the consignee's name?

By Mr. OLSON.—I OBJECT to the question, unless it is first shown that the Captain knows.

(By Mr. WEAVER.)

Q. Do you know the consignee's name?

A. The Hawaiian Fertilizer Company.

(Deposition of John Henry.)

Redirect Examination of Captain HENRY.

(By Mr. OLSON.)

Q. Apropos of the question that was asked you on cross-examination by counsel for the Inter-Island Steam Navigation Company and Matson Navigation Company as to whether or not the distance between the German cruiser and the "Celtic Chief" diminished upon the floating of the "Celtic Chief," I want to ask you whether or not the distance diminished between the buoy which showed the location of the anchor and the "Celtic Chief" whether the distance between that buoy and the "Celtic Chief" diminished when she came afloat, or did the anchor line remain taut, showing that the anchor moved seaward together with the floating of the "Celtic Chief"?

A. No, the anchor did not float with the "Celtic Chief."

Q. Do you conclude from that that the anchor did nothing in the floating of the "Celtic Chief"?

[483—148]

A. Well, she may have helped at the first a bit.

Q. Then the same would be true, would it not in the case of the German cruiser, provided she had anchors out? A. Quite so.

Q. It would not necessarily follow that because the distance between the "Celtic Chief" and the cruiser diminished that therefore the German cruiser was not exerting any power upon her lines attached to the "Celtic Chief"? A. Not at all.

By Mr. MAGOON.—OBJECTION, on the ground that it is a mere conclusion of the witness and hav-

(Deposition of John Henry.)

ing no probative value; and I MOVE that it be stricken out.

By Mr. LEWIS.—I OBJECT, on the ground that it is argumentative and also that it is incompetent, irrelevant and immaterial; and I also join in the motion to strike.

(By Mr. OLSON.)

Q. What happened to the strain on the line from the Miller anchor to the "Celtic Chief" when the "Celtic Chief" was afloat, as to whether or not it was still kept taut or whether it slackened?

A. No, it was all slack in the water after she was floated.

Q. Well, at the time she floated?

A. It was all slack in the water at that time.

Q. You stated on cross-examination that the distance between the "Mikahala" and the "Intrepid" before the "Arcona" came out and took her position was approximately fifty or sixty feet, are you sure that is or was the distance? [484—149]

A. No, I am not sure.

Q. Simply approximate?

A. Yes, simply approximate.

Q. Is the same true of the distance to which you testified between the "Intrepid" and the "Helene"?

A. The same applies to that.

Q. Referring to the wire hawser that was used by the German cruiser in towing upon the "Celtic Chief," which belonged to the "Celtic Chief," you have testified that after this line parted it was spliced together? A. Yes.

Q. Were the parts after the parting of that line

(Deposition of John Henry.)

used for the purpose of making a spliced line, after the splicing? A. Yes, the two parts.

Q. So that it was the same line as used before, except that it had been spliced together where it was parted? A. Yes, that is all.

Q. Where was that line, as far as you know, attached to another wire line belonging to the cruiser, at the cruiser's end of the line, between the cruiser and the "Celtic Chief"; was it on board the cruiser?

A. I believe it was on board the cruiser.

Q. Are you sure that another line belonging to the cruiser was actually attached to the end of that line of your own knowledge?

A. Not to my own knowledge; no.

Q. About what time was it that an equal strain was acquired by the cruiser upon her two lines attached to the "Celtic Chief" on the evening of December 8th?

A. About eight o'clock; somewhere about that.

[485—150]

Q. Did you notice those lines about that time?

A. Yes, I did.

Q. What was their condition with reference to their position in the air, as to whether or not they had a bight in them or whether they were taut?

A. At that time I could not see right along to the stern of the cruiser, but from my observation aboard the ship looking at them, and as far as I could see, they were tight.

Q. How far out could you see, how many fathoms?

A. About twenty fathoms; from twenty to thirty fathoms. I won't say exactly.

(Deposition of John Henry.)

Q. What was the position of those lines for that distance as to whether or not they dipped down or extended straight out?

A. As far as I could see they extended straight out.

Q. Did you test those lines with your foot or your hand? A. I did not do so; no.

Q. About what time of day and what day did these lighters of the Miller Salvage Company come out to the "Celtic Chief" and moor themselves alongside?

A. On Monday about ten o'clock was the first.

Q. How long did they continue moored alongside of the "Celtic Chief"?

A. There was one left in the afternoon; the first one.

Q. Where were they moored alongside the "Celtic Chief"?

A. Alongside of the main hatch—each side of the main hatch.

Q. One on either side of the vessel?

A. Yes, one on either side of the vessel.

Q. What would be the tendency of the mooring of those [486—151] vessels alongside the "Celtic Chief," with reference to putting her further on the reef or the contrary?

A. Well, they would have an inclination to put her further on the reef?

Q. The tendency would be to put her further on the reef? A. Yes.

Q. What would be the tendency of lightening the vessel without an anchor out astern or some force adequate to keep her from going further ashore?

(Deposition of John Henry.)

A. Well, the more the cargo was lightened the more she would go on the reef.

Q. Did the Miller Salvage Company do any lightering after they had their anchor out?

A. No, none.

Q. Did you discuss with Captain Miller the possibility of lightering without an anchor out astern?

A. Not at that time.

Q. Did he advise that lightering should take place?

A. Yes, he did advise that.

Q. Although there was no anchor out astern?

A. Yes, that is so.

Q. What was the purpose of this?

A. It was to try and float the vessel to get her off the reef if possible.

Q. That was Captain Miller's advice, was it?

A. Yes.

By Mr. MAGOON.—OBJECTION, on the ground that both questions are leading, and I ask to have the answer stricken out on that ground. [487—152]

(By Mr. OLSON.)

Q. Well, what was Captain Miller's advice?

(The two previous questions by Mr. Olson here withdrawn.)

Q. What was Captain Miller's advice with reference to lightering?

A. Well, when he came aboard he told me he had a large anchor and that if he could get it off and put out astern, to lighten the ship, it would be the only thing we could do to get the vessel off.

Q. When did he begin the lightering?

A. He began the lightering about ten o'clock.

(Deposition of John Henry.)

Q. On what day? A. On Monday.

Q. When did he stop lightering?

A. Tuesday morning at 2 A. M.

Q. When did he put his anchor out?

A. On Wednesday morning.

Q. The following day?

A. Yes, Wednesday morning, the following day.

Q. You have spoken of occasional bumping of the "Celtic Chief" while she lay stranded on the reef; what was the nature of this bumping? How would she bump?

A. Well, just the usual bumping of the vessel with perhaps the incoming tide, or anything like that, she might bump then.

Q. Did she bump hard as if she was damaging herself?

A. Two or three times she did bump hard.

Q. Otherwise these occasional bumps that you have spoken of, what about that?

A. That would not hurt the ship. [488—153]

Q. You have testified to having gone down into the cabin to take lunch on the night of Wednesday, December the 8th; what time was it that you went down into the cabin to take lunch that evening?

A. Shortly after eleven o'clock.

Q. Was it later than eleven-thirty?

A. No, it was not later than eleven-thirty.

Q. Was it about eleven-thirty?

A. Yes, before eleven-thirty.

Q. How long were you in the cabin?

A. About ten minutes.

Q. When was it that you first observed that the

(Deposition of John Henry.)

"Celtic Chief" began to move apparently seaward?

A. Shortly before twelve o'clock.

Q. About twelve o'clock? A. Yes.

Q. How long did it take before she was actually afloat from the time that you could observe that she was actually moving or apparently moving seaward?

A. About twenty minutes.

Q. Will you describe what was the effect upon the lines of the cruiser from this seaward movement of the "Celtic Chief"?

A. Well, at times they would be slack.

Q. Then what would happen?

A. Then they would tighten up again.

Q. How long did this go on?

A. Until the vessel was afloat.

Q. Until she was afloat? A. Yes.

Q. What was the effect upon the Miller Salvage Company's line? [489—154]

A. It was quite slack and hanging in bights after she started.

Q. Would it at times be hove in and made taut?

By Mr. WEAVER.—OBJECTION, on the ground that it is leading.

A. (By WITNESS.) Not after she started.

(By Mr. OLSON.)

Q. During those twenty minutes that she was moving seaward?

A. No, they were not heaving in on that; the line was not hove in on.

Q. You have stated that the plan was to pull upon the "Celtic Chief" at high water on Wednesday night between one and two o'clock, when did high

(Deposition of John Henry.)

water begin to come in?

A. About six hours before that.

Q. Well, when had the tide begun to make itself actually felt, by what time?

By Mr. MAGOON.—OBJECTION, on the ground that it is calling for a conclusion of the witness and also that the witness has not qualified as an expert on tides in Honolulu.

(By Mr. OLSON.)

Q. How long have you been a seafaring man?

A. Twenty years.

Q. Where have you sailed in those twenty years?

A. All over the world.

Q. What observation have you made of tides in various parts of the world?

A. I have taken a good deal of observation in different parts of the world. [490—155]

Q. Did you notice the tides while you were ashore on the reef in the harbor of Honolulu?

A. I noticed they were very small; not much rise and fall.

Q. Did you observe the tide that Wednesday night?

A. No, I cannot say that I did observe it very much.

Q. You could not state then when the tide actually began to come in with any material force? A. No.

Q. This object which you have testified to ashore as one of your range marks—are you sure what that object actually was—could you identify it or did you identify it as any particular thing at the time?

A. No; no particular thing at the time.

(Deposition of John Henry.)

Q. Was there any question about the identifying of that mark from time to time as you were on the "Celtic Chief" ashore?

By Mr. MAGOON.—OBJECTION, on the ground that it is immaterial and not proper redirect examination.

A. (By WITNESS.) No, there was no trouble.

(By Mr. OLSON.)

Q. There was no trouble?

A. No, none whatever.

Recross-examination by Mr. WEAVER.

Q. What day was it when Captain Miller came aboard and had this talk with you about the anchor and salving? A. Monday morning.

Q. Monday, and not Tuesday? [491—156]

A. Monday morning, yes.

Q. Sure of that? A. Quite sure; yes.

Q. As a matter of fact, was it not Tuesday morning when Captain Miller told you about the anchor?

A. No, it was Monday morning at the time he spoke about lightering.

Q. On Monday morning didn't Captain Miller ask you in effect what would keep your ship from going further on the reef if your ship was lightened without an anchor astern?

By Mr. OLSON.—OBJECTION, on the ground that it is improper recross-examination, neither the examination by myself on redirect nor the recross-examination by counsel for the Inter-Island Steam Navigation Company or Matson Navigation Company having dealt with phase of the testimony.

A. (By WITNESS.) No, he did not.

(Deposition of John Henry.)

(By Mr. WEAVER.)

Q. Didn't you tell Captain Miller that the steamers would hold the "Celtic Chief" while the company was lightering her?

By Mr. OLSON.—OBJECTION to the question, on the same ground.

A. (By WITNESS.) No, I did not. I would like to state in that last question you asked me that from Tuesday at 2 A. M., the time he left the ship, I did not see Captain Miller at all.

Recross-examination by Mr. LEWIS.

Q. (None.)

(Adjournment was taken at 12:10 until 9 o'clock on Monday morning, the 31st day of January, at the office of the Clerk of the United States District Court.) [492—157]

[Endorsed]: No. 116. Libelee's (Deposition of Capt. Henry). Filed Dec. 18, 1911. [493]

[Deposition of J. J. Lowry, for Libelee.]

Monday, January 31st, 1910 (9 A. M.).

The parties in the above-entitled cause met, pursuant to adjournment, at the office of the Clerk of the United States District Court, and by agreement immediately adjourned to the Chambers of the Second Judge of the United States District Court, where the following proceedings were had:

J. J. LOWRY, called for libellee, sworn.

(By Mr. OLSON.)

Q. What is your name?

A. John James Lowry.

Q. What is your occupation?

A. Mariner; I am first mate of the "Celtic Chief."

(Deposition of J. J. Lowry.)

Q. What nationality is the "Celtic Chief"?

A. British.

Q. Where is she at the present time?

A. Honolulu, at the Hackfeld wharf.

Q. When did she come to Honolulu?

A. December the 5th.

Q. December the 5th? A. Yes.

Q. Did anything happen to her coming in to the harbor of Honolulu? A. She went on the reef.

Q. How long have you been at sea, Mr. Lowry?

A. How long have I been at sea?

Q. Yes. A. Sixteen years.

Q. How long have you held *at* first officer's papers.

A. Five years.

Q. How long have you been first mate of the "Celtic Chief"? [494—158]

A. Six months, I think.

Q. Were you employed on the "Celtic Chief" before that time? A. No.

Q. Your first cruise in the "Celtic Chief"?

A. Yes.

Q. Do you know the tug "Intrepid" located at Honolulu? A. Yes, I do.

Q. Did she have anything to do with the "Celtic Chief" while she was aground?

A. Yes, she came out on the Monday morning and put a rope on board.

Q. What kind of a rope?

A. A three and a half inch wire, about ten fathoms long. It was shackled on to a manila spring of about fifty fathoms long, about a ten-inch rope.

Q. How long did she have her line attached to the "Celtic Chief"?

(Deposition of J. J. Lowry.)

A. From seven o'clock on Monday morning, or about eight o'clock Monday morning until half-past twelve on the Wednesday.

Q. On Wednesday? A. Yes, Wednesday.

Q. What happened at that time on Wednesday?

A. We wanted him to slack up and let go his rope and he would not do it, so we had to cut the wire on the bitt.

By Mr. LEWIS.—I ask that the answer, "We wanted him to let go his rope," be stricken out as hearsay, unless it is shown that the mate is testifying to his own knowledge. [495—159]

(By Mr. OLSON.)

Q. Well, I will do that now—state if the "Intrepid" was asked to slack up and let go his rope—how do you know that?

A. How do I know that he was asked?

Q. Yes, how do you know that?

A. I hailed the ship myself.

Q. About what time was that?

A. I cannot swear to any time but it would be about noon or half-past twelve.

Q. About noon on Wednesday? A. Yes.

Q. How did you happen to tell the "Intrepid" to slack up so that you could let loose?

A. The captain told me to hail the tug; he had a sore throat at the time and could not shout very loud, and wanted me to hail the ship.

Q. What did you say?

A. I don't know the exact words now; I forgot the exact words; I sang out to them to slack up as we wanted to let go.

(Deposition of J. J. Lowry.)

Q. What did the tug answer, if anything?

A. He said no.

Q. Was the tug hailed any more than you know of?

A. No, I don't think it was hailed again; the captain sent a letter across to him.

Q. Who cut the wire hawser of the "Intrepid," at the bitts of the "Celtic Chief," where that line was attached? A. The second mate and I cut it.

Q. Pursuant to whose orders?

A. The captain's orders. [496—160]

Q. Captain Henry?

A. Yes, Captain Henry.

Q. What happened when you cut that line?

A. It ran out and stuck in the port chock—in the starboard wharfing chock.

Q. How did it stick there?

A. I don't know how it jammed, but it stuck there.

Q. Describe just how the line left the bitts towards the wharfing chock as to rapidity or slowness.

A. Well, it ran out slowly; as soon as we cut the wire I was expecting to see it jump over the side the same as any other line, but instead of that we had to shove it clear of the stern.

By Mr. LEWIS.—I ask that that portion of the answer "We were expecting it to jump over the side" be stricken out, on the ground that it is incompetent, irrelevant and immaterial.

By Mr. OLSON.—I oppose that motion.

Q. Did you observe that line at any time between the time it was attached to the "Celtic Chief" on Monday morning and the time it was cut loose on Wednesday?

(Deposition of J. J. Lowry.)

A. Yes, I could not help observing it.

Q. How often did you observe it?

A. Frequently, but I could not say how often; I suppose about five or six times an hour anyway. I got into a kind of habit of testing all the lines.

Q. Did you test the "Intrepid's" line?

A. Yes.

Q. What was the result of those tests? [497—
161]

A. We decided there was no weight on it.

Q. How could you tell there was no weight on it?

A. You could press it right down to the deck; it was about one foot clear of the deck.

Q. How did you test it?

A. Put my foot on it and pressed it right down to the deck.

Q. State whether or not there was any difficulty in pressing it down to the deck.

A. None at all at any time I tried.

Q. Did you observe that line, the condition of that line between the "Celtic Chief" and the "Intrepid" as to whether or not there was a bight in it at any time? A. There was a bight in it always.

Q. State whether or not it was in the water.

A. It was not in the water all the time but it was touching the water. When the tug fell the rope would go in the water, as the tug is low in the water herself; there was a bight in the line all the time.

Q. Do you remember what other boats had lines on the "Celtic Chief"?

A. Yes; the "Mauna Kea," the "Mikahala," the "Helene," and "Likelike"; I think that is all.

(Deposition of J. J. Lowry.)

Q. Those are Inter-Island boats, were they not?

A. Yes, Inter-Island boats.

Q. How long did the "Mauna Kea" have her line aboard?

A. From about ten or eleven o'clock on the Monday morning until eight o'clock on Tuesday morning, I think.

Q. Did you observe her line?

A. Yes. [498—162]

Q. State whether or not it had any strain on it.

A. Yes, there was a big weight on the "Mauna Kea's" line all the time.

Q. What kind of a line did she have?

A. A twelve-inch manila hawser.

Q. Did you observe the "Makahala's" line?

A. Yes.

Q. How long was that line attached to the "Celtic Chief"?

A. From about ten or eleven o'clock on the Monday morning until the time she floated; that would be twelve o'clock on Wednesday night.

Q. How often would you observe that line?

A. Very frequently; as often as I tested the "Intrepid's" line.

Q. How often would you test it?

A. Four or five times an hour, anyway; I could not say exactly.

Q. What was the result of those tests as to whether or not there was any strain on that line?

A. There was a weight on the "Makahala's" line but nothing very extraordinary.

Q. Would you test that in the same way that you

(Deposition of J. J. Lowry.)

did the "Intrepid's" line?

A. Yes, but I could not press that one down to the deck.

Q. Could you press it any distance?

A. Yes, I could press it down three or four inches.

Q. State whether or not there was any bight in that line.

A. Yes, there was a slight bight in that one.

[499—163]

Q. Did you observe the "Helene's" line?

A. Yes.

Q. How long was her line on?

A. She took the "Mauna Kea's" rope.

Q. And continued how long?

A. She continued towing until we floated.

Q. Did you observe that line? A. Yes.

Q. Frequently? A. Yes.

Q. Test it? A. Yes.

Q. And what was the condition of that line as to whether or not there was any strain on it?

A. There was a good weight on that line but nothing like what the "Mauna Kea" had on it.

Q. How as compared with the "Mikahala's" line?

A. I think about the same strain as the "Mikahala"; it was a heavier and bigger rope.

Q. Did you test that with your foot? A. Yes.

Q. What was the result of those tests?

A. Pretty tight. There was not a very great weight on it and nothing to be compared with what the "Mauna Kea" had.

Q. Could you press it down to the deck?

A. Yes, you could press it to the deck at any time.

(Deposition of J. J. Lowry.)

Q. What about the "Likelike's" line?

A. Not a great deal of weight on the "Likelike's" line.

Q. How could you tell that?

A. By testing it with my foot. [500—164]

Q. What could you do with your foot?

A. Press the rope right down to the deck.

Q. State whether or not there was any bight in that line during the time she was attached.

A. That was in the water the best part of the time, and there was a slight bight in that.

Q. Do you know the German cruiser "Arcona"?

A. Yes.

Q. Did she have anything to do with the "Celtic Chief" while she was ashore?

A. Yes, the "Arcona" put two wires to us.

Q. When did she first come to the assistance of the "Celtic Chief"?

A. About midday on the Wednesday.

Q. What did she do when she came out?

A. She ran two wires to us; she ran one and we gave her the other.

Q. What position did she take?

A. She was right astern of the ship.

Q. What had happened to the "Intrepid" at that time?

A. I don't know; she had gone somewhere but I don't know where she went.

Q. The cruiser took the "Intrepid's" position?

A. Yes.

Q. What lines did the cruiser use?

By Mr. LEWIS.—I will have to ask that that ques-

(Deposition of J. J. Lowry.)

tion—your leading question—as long as you say approximately, because she did not go in the same position as the "Intrepid."

(By Mr. OLSON.)

Q. As to the position taken by the cruiser, what position [501—165] with reference to the "Celtic Chief" did she take? A. Right astern.

Q. And that is what you mean by stating that she took the position that the "Intrepid" had?

A. Yes, that is so.

Q. State what wires the cruiser used.

A. A four and a half inch wire from us; our wire.

Q. When did she put that aboard?

A. About three or half-past three in the afternoon we got that fast.

Q. Then what happened, that afternoon of what day? A. Wednesday.

Q. Then what happened when she got that fast?

A. She went ahead and broke it.

Q. I will hand you this piece of wire hawser which is marked "Re 'Celtic Chief,' Claimant's Exhibit, Captain Henry, B," and ask you to examine it—do you recognize that wire? A. Yes.

Q. What is it?

A. Part of our wire; the part of the wire that the cruiser "Arcona" broke.

Q. About what time did that line break after the cruiser had put it aboard the "Celtic Chief"?

A. About half-past three in the afternoon.

Q. Then what did she do?

A. She took it aboard and spliced it.

Q. The broken pieces? A. Yes.

(Deposition of J. J. Lowry.)

Q. And then what did she do?

A. Then she put her wire aboard of us.

Q. What did she do with the ship's wire that had been [502—167] broken and spliced?

A. Made that fast again.

Q. Made fast to what again? Fast to what ship?

A. Fast to the "Celtic Chief."

Q. To what did she make fast her own line that you spoke of, also to the "Celtic Chief"? A. Yes.

Q. What kind of a line was the line that the cruiser put aboard besides the "Celtic Chief's" wire that she was using? A. A four and a half inch wire too.

Q. Where were these lines attached to the "Celtic Chief," if you know?

A. One around the mainmast and the other round the mizzenmast.

Q. On what side of the "Celtic Chief"?

A. The "Arcona's" rope was on the starboard side and our own rope on the port side.

Q. Then what did she do after she had those two lines made fast to the "Celtic Chief"?

A. She tightened them up and got a big weight on them.

Q. When did she get them tightened?

A. That would be about six o'clock before the strain was on the two wires.

Q. Then what happened?

A. I am kind of hazy around about there; I cannot remember it; this all happened a month ago.

Q. Did you observe these wires at any time after that? A. Yes.

Q. What was the condition of those wires with ref-

(Deposition of J. J. Lowry.)

erence [503—168] to the question of whether or not there was any strain on them?

A. They were tight all the time; they were tight enough to crush two strong-backs we had up and down the mainmast.

Q. Did you observe these lines out from the "Celtic Chief"? A. Yes.

Q. What was their direction and position?

A. I know the direction they were leading from our ship to the "Arcona."

Q. Astern? A. Yes.

Q. What position did they have as to whether or not there was any bight in them, or whether or not they were straight out?

A. They were straight out; tight all the time.

Q. How long were you on watch that Wednesday night?

A. Wednesday night I laid down about ten o'clock until about half-past eleven.

Q. From ten o'clock until about half-past eleven you lay down? A. Yes.

Q. Were you asleep? A. Yes.

Q. Did you notice whether or not the German cruiser "Arcona" had a search-light playing on Wednesday night? A. Yes.

Q. What time did it begin to be used?

A. A little before ten o'clock; a little before I lay down.

Q. Could you see the cruiser's wires prior to the time that the search-light was put on? [504—169]

A. Yes.

(Deposition of J. J. Lowry.)

Q. How could you see them without the aid of a search-light?

A. It was a clear night and you could see the wire against the background of the water.

Q. Did you observe those wires after the search-light began to be used? A. Yes.

Q. State how much of a strain there was on them, if you know.

A. There was a big weight on the wires all the time.

Q. What was the condition of affairs when you came out again at half-past eleven o'clock, after you had your sleep?

A. They were preparing to make a hard pull with all the tugs. But I don't know; I went away forward to stand by the anchor; we expected her to go off then.

Q. When did the "Celtic Chief" come off?

A. Between twelve and half-past twelve o'clock.

Q. When did she begin to move according to your observation? A. About twelve o'clock.

Q. Do you know how much of a strain there was on the various lines from the time she began to move until the time she came off?

A. No; I was forward then and I don't know anything about what happened aft.

Q. When she came off what happened—what was done when she came off?

A. I don't know what was done aft; I was forward there.

Q. Still forward? A. Yes. [505—170]

Q. Do you know Captain Miller? A. Yes.

(Deposition of J. J. Lowry.)

Q. When did you first see him?

A. Between seven and eight o'clock on Monday morning.

Q. What did he have to do with the "Celtic Chief"?

A. Well, he came off and offered to lighten the ship up and run his anchor out astern and get the ship off the reef.

Q. What did he do?

A. He went ashore again about nine o'clock, I think. About half-past eight he went ashore again. About ten o'clock he brought out a gang of laborers and a lighter and commenced to discharge cargo out of the main hatch over our starboard side.

Q. It might have been the port side?

A. It might have been; I would not swear to that.

Q. What was the condition of the weather at that time when the lighter of the Miller Salvage Company began to receive cargo from the "Celtic Chief"?

A. Fine weather. There was a slight southerly swell.

Q. How long did that lighter continue to receive cargo from the "Celtic Chief"? A. I forget now.

Q. Did you observe whether or not any damage was done to the Miller Salvage Company's lighters or boats while at work discharging cargo from the "Celtic Chief"?

A. Yes, the "Concord" broke her forward wharfing chock.

Q. How did she do that?

A. She was ranging about on the swell.

Q. Well, was that damage avoidable?

(Deposition of J. J. Lowry.)

A. Well, hardly avoidable under the circumstances. [506—171] The schooner was ranging about and the weight of the rope broke the wharfing chock. It was hardly avoidable.

Q. State whether or not that damage was due to the fact that the "Celtic Chief" was outside of the harbor. A. Yes.

Q. Caused by what?

A. Caused by the slight swell that was running in over the reef.

Q. Was there any other damage done?

A. The other lighter was scraped outside, scraped along her side; but that was nothing, she just scraped the paint off.

Q. Was that avoidable?

A. Yes, that could have been avoided.

Q. How could that have been avoided?

A. If they had had fenders over the side that would not happen.

Q. What was the condition of the weather throughout the time that the "Celtic Chief" was ashore on the reef? A. It was fine weather all the time.

Q. Was there any sea running?

A. There was a light southerly swell the whole time we were there.

Q. Was there any wind blowing?

A. Light northerly airs; northeasterly airs.

Q. State whether or not there was any danger to any of the boats that were used during the salvage operations. A. No danger; no danger to anyone.

Q. Was there any danger to the persons who were engaged in the salvage operations? [507—172]

(Deposition of J. J. Lowry.)

A. No, there was no danger.

Q. State whether or not there was any difficulty in lightering the cargo from the "Celtic Chief" to Captain Miller's lighters.

A. No great difficulty, not to Captain Miller's lighters.

Q. Was there any lightering done? A. Yes.

Q. By whom?

A. The Inter-Island Company.

Q. When did that begin?

A. That began about ten o'clock on Tuesday morning.

Q. How long did that continue?

A. Right up to the time we floated.

Q. Was there any danger to the Inter-Island boats used in lightering?

A. Yes, it was pretty risky work.

Q. How?

A. The swell running alongside the ship and these small boats.

Q. Was there any damage done to them?

A. No, I did not notice any damage.

Q. What danger was that?

A. Well, there was the danger to the men in the boats; a sling of bags hanging over the side and the boat jumping about and they had to land that sling into the boat and it was pretty risky.

Q. What kind of boats were used?

A. Surf boats.

Q. Belonging to the Inter-Island steamers?

A. Yes.

(Deposition of J. J. Lowry.)

Q. When did Captain Miller's boat stop lightering? [508—173]

A. At half-past two o'clock on Tuesday morning.

Q. Did Captain Miller of the Miller Salvage Company do anything else besides lightering the "Celtic Chief"? A. Yes, they ran an anchor out astern.

Q. When was that anchor run out astern?

A. On the Wednesday.

Q. About what time? A. About midday.

Q. When did they get a strain on Captain Miller's line attached to that anchor?

A. About five o'clock on Wednesday evening.

Q. Did you observe that line? A. Yes.

Q. What was its condition as to whether or not there was a strain on it?

A. There was a big strain on the line.

Q. How was that strain put on that line?

A. Two, three-fold tackles and hove tight.

Q. Whose tackles were they?

A. Captain Miller's tackles.

Q. Whose lines were used?

A. He got some rope and wire from us.

Q. Whose blocks were used?

A. There was three blocks belonging to us used.

Q. How were those tackles used in order to heave in the anchor line?

A. One lead right along the deck from the forward bitts, and on the hawser.

Q. How were they hove in?

A. Hove with our steam and with our capstan; sometimes [509—174] using the steam winch and sometimes using the capstan.

(Deposition of J. J. Lowry.)

Q. Where was the capstan?

A. On the forecastle-head.

Q. How was that capstan operated?

A. By hand.

Q. Who operated it during the time that it was used in heaving in on Captain Miller's line?

A. Captain Miller's own men.

Q. Who was running the steam winch?

A. Our carpenter and one apprentice.

Q. How was the cargo lightered that was discharged from the "Celtic Chief" to the Miller Salvage Company's lighters?

A. It was passed out by hand.

Q. Who did that? A. Captain Miller's men.

Q. How was the cargo discharged into the Inter-Island boats?

A. Hove up by the steam winch.

Q. Whose steam winch? A. Ours.

Q. Your own? A. Yes.

Q. Do you remember whether or not there was a donkey hoist and barge used in connection with the Inter-Island lightering? A. Yes.

Q. When was that used?

A. Commenced work about six o'clock on Wednesday evening.

Q. Was this steam winch on board the "Celtic Chief" used [510—175] all the time in discharging the cargo into the Inter-Island boats?

A. Yes.

Q. Did you do any sounding about the "Celtic Chief" while she was aground? A. Yes.

Q. What sounding did you do?

(Deposition of J. J. Lowry.)

A. I sounded all around the ship once myself.

Q. What was the result of your sounding?

A. I got three and a quarter fathoms.

Q. Where?

A. All round the ship; I never got any more or any less.

Q. What did you use for the purpose of sounding?

A. An ordinary hand lead line.

Q. Describe that lead.

A. It is a long piece of lead weighing about seven or eight pounds, on the end of a three-quarter inch line or one-inch line.

Q. Describe the bottom part of that lead.

A. It is hollowed out to a depth of about one inch.

Q. What is it hollowed out for?

A. To fill the hole up with tallow.

Q. What for?

A. To find out the nature of the bottom.

Q. Did you do that at this time that you were sounding about the "Celtic Chief"? A. Yes.

Q. What were the results?

A. Well, I judged the bottom to be sand and soft coral. [511—176]

Q. Why?

A. There was sand sticking to the tallow and some small flakes of coral rock.

Q. State whether or not that was true of all of your soundings around the vessel.

A. The same all around.

Q. How could you tell if your lead came up with the hollow holding portions of sand and coral whether or not it was the same the next time you

(Deposition of J. J. Lowry.)

used it? A. It was cleaned out every time.

Q. State whether or not the "Celtic Chief" lay quietly on the reef or whether she bumped at times.

A. She bumped lightly at times.

Q. How often?

A. Oh, I should say about every twenty minutes or so. It was not very often, anyway.

Q. What kind of a bump?

A. Just as if she had risen on the swell and fell and touched bottom.

Q. Hard or easily? A. Not very hard.

Q. When did you observe that she bumped the hardest?

A. The hardest bump she did was when she was going on the reef.

Q. Were you on the "Celtic Chief" at the time that the "Intrepid" first came out to the "Celtic Chief"? A. Yes.

Q. What happened when the "Intrepid" came out?

A. They hailed the ship and asked us if we were on the reef.

Q. What else? [512—177]

A. The captain said yes, we were, and he offered to tow us off.

Q. Then what?

A. The captain asked him how much it would be.

Q. What did he answer?

A. Twenty thousand dollars.

Q. What did Captain Henry reply?

A. He said the ship was not worth it.

Q. Then what happened?

(Deposition of J. J. Lowry.)

A. He came down to ten thousand dollars.

Q. Who came down to ten thousand dollars?

A. The captain of the "Intrepid."

Q. Then what did Captain Henry say?

A. He would not agree to that either.

Q. What did they then do?

A. He offered to let it all be settled ashore.

(At 10 A. M. a recess was taken until 10:30 A. M.)

Q. Did Captain Henry agree that the compensation, if any, should be settled ashore? A. Yes.

Q. When high tide Wednesday night?

A. About midnight.

Q. Might have been a little later?

A. About midnight; it might have been a little later but I could not swear about that.

Q. Was any of the cargo that was lightered damaged? A. Yes, some damaged.

Q. How was it damaged?

A. The bags were all torn.

Q. Is that true both of the Miller Salvage Company and the Inter-Island Steam Navigation Company? [513—178] A. Yes.

Cross-examination by Mr. LEWIS.

Q. The "Intrepid" made fast to the "Celtic Chief" by means of a hawser consisting of a three and a half inch wire attached to a manila hawser—that is correct? A. Yes.

Q. Now, was not this manila hawser twelve inch instead of ten inch, as you have testified?

A. It was not twelve inches; it was about ten inches, I should say; I did not measure it and I am only guessing.

(Deposition of J. J. Lowry.)

Q. You said in your direct examination that you tested the lines of the "Intrepid"—do you remember what time of the day and night it was that you tested those lines—you said five or six times?

A. I was testing it all the time. I said five or six times an hour.

Q. At all times during the day and night five or six times an hour?

A. Not at all times because I was asleep sometimes. It was a kind of a habit as I passed around the stern to put your foot on the rope. It is a habit you get into.

Q. You have testified in your direct examination that there was quite a strain on the "Mauna Kea's" line? A. Yes.

Q. That was attached to the mizzenmast?

A. Yes.

Q. And the place where it was attached is shown by the mark to-day, is it not? A. Yes.

Q. As a result of the "Mauna Kea" pulling on the mizzenmast of the "Celtic Chief" you will find quite an indentation [514—179] in the mast itself, will you not? A. Yes.

Q. That is practically an indentation in this mast of about one inch and three-quarters?

A. About that.

Q. What is the mizzenmast made of?

A. Steel. Quarter-inch plate, I think it is.

Q. This dickering that took place between Captain Henry and Captain MacAlister did not last more than ten minutes, did it?

A. No, about ten minutes.

(Deposition of J. J. Lowry.)

Q. Then from the time that the "Intrepid" appeared alongside or near the "Celtic Chief" and until this hawser was fast there was not more than a period of time of more than ten or fifteen minutes, was there? A. That is about all, I think.

Q. And as to the "Helene's" line, will you kindly tell me just exactly how that line was made fast on board the "Celtic Chief"?

A. The "Helene's" line?

Q. Yes.

A. The "Helene" took the rope that the "Mauna Kea" had.

Q. Well, I will reframe the question, as follows: Will you kindly tell me how the line which the "Helene" pulled on, which you have testified to as being the "Mauna Kea's" line, was made fast on board the "Celtic Chief"?

A. Yes; it came through the port wharfing chock and right across the poop with a complete round turn round the mizzen and two half hitches at the end on its own part, and the end lashed down with a small rope.

Q. A portion of that line ran across the deck of the [515—180] poop? A. Yes.

Q. A portion of it was lying on the poop, was it not? A. Yes.

Q. During the time that the "Helene" was pulling, at first she was pulling with a twelve-inch manila hawser made fast outboard to two parts of a twelve-inch manila hawser—no, hemp hawser—which was brought inboard and fastened to the mizzenmast, as you have said, after that one part of the twelve-inch

(Deposition of J. J. Lowry.)

hawser broke and you then in place of the one part of broken twelve-inch hawser made fast a five-inch steel wire in place of the parted hemp hawser?

By Mr. OLSON.—OBJECTION, on the ground that it is incorrectly stating the testimony of the witness, and that there is no testimony showing any such state of facts.

By Mr. LEWIS.—Well, I am asking him if as a matter of fact that was not so.

Q. Irrespective of what your former testimony has been?

A. (By WITNESS.) Well, I know there was some alteration made in the hawser, but I forget exactly what it was.

Q. I direct your attention to a portion of a steel wire hawser known as—"Claimant's Captain Henry's Exhibit B," and ask you what do you say is the size of this wire? A. Four and a half inch.

Q. There was no moon on the night of Wednesday, was there? A. No.

Q. This steam hoist which was placed on board, operated [516—181] alongside of the "Celtic Chief" and by means of which you worked cargo, as you testified in your direct examination, was so used in discharging cargo up to the time the ship came off, was it not? A. Yes, that is correct.

Q. And that cargo that it was discharging was taken on board of the Inter-Island boats which were out there on that evening? A. Yes.

Q. That is, the Inter-Island steamers? A. Yes.

Q. That steam winch during the time of these salvage operations got out of repair on one occasion,

(Deposition of J. J. Lowry.)

didn't it? A. Which winch?

Q. Your steam winch, the ship's steam winch?

A. Something went wrong with the feed pump but that was fixed up in about ten minutes, I guess.

Q. That is, the pipes were leaking?

A. Some packing blew out of the plunger; it was only about ten minutes to fix it up.

Q. What time was this that you are now testifying to, that the steam winch got out of condition?

A. About midday on Wednesday; I would not swear to that but I think it was Wednesday.

Q. While the "Celtic Chief" was on the reef during the whole of the time of these salvage operations, did she make a bed for herself upon the substance upon which she was resting?

A. I should say she did but I have no means of judging; I could not see that she did; she seemed to have done so and [517—182] seemed to be stuck pretty hard.

Q. These bumps which you have testified to which you noticed on board the "Celtic Chief," did they occur frequently?

A. No, not frequently; about every twenty minutes, I should say; somewhere about that.

Q. Some of them were hard enough to shake the masts and the rigging?

A. Yes, but it would not take much of a shake to do that.

Q. Well, hard enough to shake the rigging quite violently?

A. Well, it was shaken but I would not call it violently.

(Deposition of J. J. Lowry.)

Q. You could hear the lines and blocks rattling a bit, couldn't you, when the ship bumped?

A. Yes, they would rattle a little bit, but there was nothing damaged up there, so I guess she did not shake very hard.

Q. But they were shaken quite hard up there, were they not? A. No, not violently.

Q. High tide that night of Wednesday and the morning was more nearly between one and two, was it not, than twelve, as you have testified on your direct examination? A. High water?

Q. Yes, high water.

A. Well, as far as I remember, it was midnight. It might have been one o'clock; it was around about midnight, anyway.

Q. I am correct in my understanding of your direct testimony, am I not, when I say that during the evening of [518—183] Wednesday you were practically all the time on the forecastle head?

A. During the evening of Wednesday?

Q. Yes.

A. No, not in the evening. I was not on the forecastle-head until late that night—about half-past eleven o'clock.

Q. Half-past eleven o'clock when you went on the forecastle-head?

A. Yes, when I went on the forecastle-head.

Q. And from about ten o'clock until half-past eleven you were asleep? A. Yes.

Q. As the "Celtic Chief" came off the reef that evening didn't you notice her approach the cruiser "Arconia"?

(Deposition of J. J. Lowry.)

A. No, I was not taking much notice of that at all; I was standing by the anchor forward.

Q. You were attending to your business forward there? A. Yes.

By Mr. MAGOON.—I know that it is not ordinarily the practice to allow two counsel to examine, but I would like to ask some questions and let Mr. Weaver finish.

By Mr. OLSON.—No OBJECTION.

By Mr. LEWIS.—No OBJECTION.

Cross-examination by Mr. MAGOON.

Q. What time did you use that you speak of, Honolulu time or other time?

A. I went by Honolulu time.

Q. When did you get that time? [519—184]

By Mr. LEWIS.—Well, I have just a short question.

Q. As to these soundings, Mr. Lowry, did you take soundings the day of Wednesday?

A. No, I don't remember taking it on Wednesday.

Q. When was it that you took these soundings?

A. I think it was Tuesday morning about eight o'clock.

Q. And you don't remember taking any more after that?

A. I did not take them myself after that but they were taken after that by the second mate.

Q. Well, these soundings that you have testified to you took yourself? A. Yes.

Q. And the second mate thereafter took some soundings? A. Yes.

(Deposition of J. J. Lowry.)

Continued Cross-examination by Mr. MAGOON.

Q. When did you get this time?

A. Well, it was our own time calculated from the sun.

Q. So that all the time you are speaking of here is Honolulu time taken by the sun? A. Yes.

Q. You set your watch by that time?

A. We had the watch set here to carry the time right along according to the position of the vessel.

Q. When did you stop discharging cargo into the Inter-Island boat?

A. Into the Inter-Island boat?

Q. Yes.

A. I cannot swear to the exact time but it was about midnight on Wednesday. [520—185]

Q. Was it a fact that you were discharging cargo at the time you went to bed?

A. Yes, they were discharging then.

Q. You are sure of that are you?

A. Well, I won't say I am sure of it; that happened about two months ago.

Q. Could you give us any estimate of about how much cargo was discharged after twelve o'clock noon on Wednesday? A. No, I could not give that.

Q. Could you tell us about how much a discharge of one hundred tons of cargo would lighten the "Celtic Chief"?

A. One hundred tons would only lighten her up about four inches.

Q. Do you have anything to remind you what time you went to bed on Wednesday night?

A. No.

(Deposition of J. J. Lowry.)

Q. Do you have anything to fix it in your memory as to the time you came out on Wednesday night, after you had been in bed?

A. No, I cannot think of anything to fix it; I know that was the time but there is no incident to impress it on my memory.

Q. You did not look at your watch as far, as you can remember? A. No.

Q. So that when you are speaking of this time you are speaking of it according to your best judgment with reference to the facts that occurred; is that right?

A. I am speaking of it as I remember the time, but not in connection with any incident or fact.

Q. Well, how can you remember the time if you did not [521—186] look at your watch or the clock?

A. I don't know; I know that was the time, I remember that; but I don't know what told me the time.

Q. Well, if you did not look at any watch or clock, how could you say now that you know that was the time?

A. I must have looked at my watch but I don't remember doing it. It is only a little incident and you don't remember that two months after that. There is such a thing as pulling your watch out and you would not remember that.

Q. Well, can you tell us the exact time that you got up?

A. I cannot give the exact time but it was about half-past eleven.

Q. Might have been twelve o'clock?

(Deposition of J. J. Lowry.)

A. No, it was not twelve o'clock.

Q. Was the vessel moving when you got up?

A. No, it was not moving when I got up.

Q. Was the ship's bell system kept going?

A. No.

Q. How long after you got up and came out was it that the ship moved off the reef?

A. About a quarter of an hour or twenty minutes.

Q. So that you are sure that the ship was off the reef before twelve o'clock—is that right?

A. No, I am not sure that she was off before twelve; it was after twelve.

Q. How long would it take to get off after it began first to move off?

A. I think about twenty minutes before she was fully afloat, from the time she first moved until she was fully afloat. [522—187]

Q. Where were you when she first moved?

A. Forward.

Q. Where? A. I was standing by the windlass.

Q. What was the windlass doing at that time?

A. Doing nothing at all.

Q. Not pulling? A. No, not our windlass.

Q. What was the capstan doing?

A. The capstan?

Q. Yes.

A. Captain Miller was heaving on that.

Q. How many men did he have heaving on the capstan?

A. Eight or ten as far as I can remember.

Q. What was the steam winch doing?

A. I don't know what it was doing. It was too far

(Deposition of J. J. Lowry.)

away for me to see.

Q. You could not tell whether they were heaving on that or not?

A. No, I do not remember what the winch was doing.

Q. Where was the captain when you came up on deck that night, after your sleep?

A. On the poop.

Q. He was on the poop? A. Yes.

Q. You are sure of that?

A. Yes, I am sure of that.

Q. When you came up you saw the captain there, did you? A. Yes.

Q. Was he with anyone?

A. There was some people there but I forget who they were. [523—188]

Q. Do you know whether any orders were given with reference to the red lights that evening?

A. Yes, there were two red lights there for a signal.

Q. When were the red lights placed there?

A. They were hanging up in the starboard mizzen rigging.

Q. Since what time?

A. I cannot say; I don't know.

Q. Were they there when you came on deck after your sleep? A. Yes.

Q. You don't know when they were put there?

A. No, I do not.

Q. Did you put those lights there that night?

A. There were there two nights and I hung them up one night, I know, but which night it was I do not know.

(Deposition of J. J. Lowry.)

Q. Did you give any orders to have them hung up either night?

A. Yes, I told the lamp trimmer to have them handy.

Q. Did you hear any orders given on Wednesday night to have the red light put up? A. No.

Q. The captain never gave you any orders?

A. It might have been Wednesday or Tuesday, I don't know, but one night I hung them up.

Q. What did you hang those lights up there for, do you know?

A. If I remember rightly two red lights was a signal to the tugs to pull hard.

Q. How did you know that?

A. I think Captain Henry made the signal.

Q. And you are sure they were put there before you went [524—189] to bed?

A. I cannot swear that; I don't know what time they were put up.

Q. What was the signal with reference to the cruiser "Arcona"?

A. That is shooting by a colored star or colored ball.

Q. Well, what were the signals?

A. As near as I can remember, one ball was the signal that she was starting to move, two that she was moving rapidly and three that she was afloat. That is as near as I can remember.

Q. Is it not a fact that one ball was to notify them to pull and two balls that she was moving and the third that she was afloat?

A. I don't swear to that; I don't know exactly what

(Deposition of J. J. Lowry.)

the signals were, but as near as I can remember one was that she was moving.

Q. Well, you did not expect to pull until high tide?

A. It was agreed that all should pull hard together at that time.

Q. And that is why you went to sleep because you did not expect high tide for several hours?

A. I did not expect it before midnight and that is why I went down. There was no use my knocking around there.

Q. When you went to sleep you went below?

A. Yes.

Q. Did you go into the cabin? A. Yes.

Q. When you entered the cabin to sleep was Captain Miller on board?

A. I think he was; I don't know. [525—190]

Q. Was he pulling then, do you know?

A. Oh, yes, he was just setting up that hawser tight.

Q. Which hawser was that?

A. His own hawser, his anchor.

Q. He had one hawser, did he?

A. There was a wire and a rope and I have heard since that there was some chain on it, but I don't know.

Q. He was superintending the pulling tight of this hawser when you went below? A. Yes.

Q. And could you tell at that time whether there was a great strain on it? A. Yes, there was.

Q. Did you see him when he was placing that anchor?

A. Yes, I saw the "James Makee," the steamer.

Q. And he placed the anchor, after consultation

(Deposition of J. J. Lowry.)

with the captain, where it was agreed to place it, didn't he?

A. As far as I know; I don't know whether there was any consultation about it at all.

Q. Don't you know that Captain Miller and Captain Henry agreed as to where the anchor should be placed?

A. Captain Miller came off first with the anchor and wanted to run it out on the port quarter and I know that the captain refused to let him put it there, but whether they agreed between themselves to run it out astern, I don't know. I only know that the captain refused to let him put it on the port quarter. And afterwards it was put dead astern, but whether that was the result of any consultation I don't know.

Q. And as soon as the anchor was placed in position the ropes began to be made taut?

A. Yes. [526—191]

Q. To the winch and to the capstan?

A. Yes, they were using both, but not both at the same time.

Q. Not both at the same time?

A. No, they never used the steam winch and the capstan at the same time.

Q. What time was it, as far as you can remember, when you saw this very great strain upon Captain Miller's hawser?

A. I think it was about eight o'clock at night.

Q. That is when he began to get his heavy pull and he kept on pulling until you went to bed? A. Yes.

Q. What was the first that you noticed of the ship being free or afloat?

(Deposition of J. J. Lowry.)

A. I noticed the lights, the channel lights. There was two in line where I was standing. I was standing at the break of the forecastle-head and there was two lights in line and as soon as she started to move they came out of line.

Q. Were you having your attention fixed on those lights all the time? A. No.

Q. So that she might have been moving a little before you looked at those lights?

A. She might have moved; yes.

Q. When you looked at the lights you noticed she had moved? A. Yes.

Q. Did you say anything?

A. There was no one there to say anything to.

Q. You just stood by?

A. I was standing by the windlass. [527—192]

Q. Then you did not feel any unusual motion, your attention was not directed to the fact that she was afloat by some unusual motion was it, by any bumping or thumping? A. No.

Q. She went off very easily when she began to go?

A. Yes. ,

Q. Before you went down to sleep how long was it that you observed the cable to the ship "Arcona"?

A. How long was it?

Q. What was the time or the last time before you went down to sleep that you observed the cable to the ship "Arcona"?

A. I think that was about nine o'clock.

Q. Was that cable taut then? A. Yes.

Q. Now, how do you explain it if the "Arcona" was to pull and they were all to pull when you had set

(Deposition of J. J. Lowry.)

up your signal, that the "Arcona" was pulling about that time, about nine o'clock?

By Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination and on the ground that it is incompetent, irrelevant and immaterial and further on the ground that it is asking for a conclusion of the witness. (QUESTION WITHDRAWN.)

(By Mr. MAGOON.)

Q. How do you reconcile your statement that the "Arcona" was pulling about nine o'clock when you have also stated that the vessel was to pull about high tide?

By Mr. OLSON.—OBJECTION, on the ground that it is incorrectly stating the testimony of the witness, the testimony of the witness being [528—193] simply that the signals were that the "Celtic Chief" was moving, moving rapidly and off, and no testimony whatever that the German cruiser was not to pull before that time.

A. (By WITNESS.) How do I reconcile the statement?

(By Mr. MAGOON.)

Q. Yes.

A. I stated there was a big weight on the wire but I did not say she was pulling at their hardest; at twelve o'clock, the agreement was for all boats to pull all they could, at twelve o'clock, at high water, but it did not mean to say that they had not got to pull before that.

Q. Do you mean to say that the agreement was that

(Deposition of J. J. Lowry.)

they were to pull at twelve o'clock or high water—
which was it?

A. High water, which was round about twelve
o'clock.

Q. Well, you don't remember about that, what
time high water was?

A. I cannot swear to the time of high water.

Q. It may have been two o'clock?

A. I don't think it was as late as that; it was be-
tween twelve and one as far as I remember.

Q. Did you see the captain of the cruiser "Arcona"
on board at the time she came off?

A. I saw him aboard but whether it was when she
came off I cannot say. I do not think he was aboard
when we floated.

Q. Do you know who sent up those rockets or shots?

A. No.

Q. Did you hear anything said with reference to
them?

A. Yes, I heard the first lieutenant or chief officer
arrange these signals.

Q. With whom? [529—194]

A. He was telling our captain the time I heard him.

Q. What did you hear him say?

A. As far as I remember, there was to be one ball
when she was moving; this was the signal he was
to send to the man of war, one ball that she was mov-
ing; two that she was moving rapidly and three that
she was afloat.

Q. Was not there some signal to tell them when to
pull? A. Not that I remember.

Q. How vivid is your memory upon that proposi-

(Deposition of J. J. Lowry.)

tion—is it very clear or somewhat dim?

A. On the signals?

Q. Yes. A. I am pretty sure of it.

Q. Well, why do you say, "as near as you can remember"? A. Well, force of habit, I guess.

Q. What I am trying to get at is whether you are making that as a positive statement that you remember distinctly and positively or whether you are making it as an impression? A. The signals?

Q. Yes.

A. I am positive of that; one ball that she was moving, two that she was moving rapidly and three that she was afloat. The signals were to the man of war to give him a chance to get out of the way.

Q. Was there any signal at all as to when she was to begin to pull? A. Not that I know of.

Q. Didn't that strike you as peculiar that you should send up one ball when the ship was moving, rather than that one ball should be sent up when they were expected to pull? [530—195]

By Mr. OLSON.—OBJECTION, on the ground that it is incompetent, irrelevant and immaterial, and further that it calls for a conclusion of the witness, and on the further ground that it has no tendency to prove any of the issues of the case.

A. (By WITNESS.) It did not strike me any way; I did not take that much notice of it.

(By Mr. MAGOON.)

Q. Were not you consulting with Captain Henry as to the operations there?

A. I had very little to do with it.

Q. Is this not a fact, Mr. Lowry, that the real

(Deposition of J. J. Lowry.)

signals were to be arranged for after the officers came back from the German cruiser and that they had not been really agreed upon prior to the time that you came out, prior to the time you went to bed?

A. They must have been agreed on before I went to bed because I remember them talking about it. I remember it.

Q. Who was talking about it?

A. The chief officer of the man of war was talking to our captain at the time I heard it, and he said these were to be the signals as I have stated.

Q. And that was before you went to bed?

A. Yes, before I went to bed.

Q. What time? A. About nine o'clock, I think.

Q. Was anyone present besides yourself and the chief officer of the man of war and the captain?

A. Yes, there was three or four people, but I forget who they were; if I am not mistaken Captain Miller was there. [531—196]

Q. Was Captain Macaulay, the pilot, there?

A. Yes.

Q. And he heard this talk with reference to the signals, did he? A. He must have done; yes.

Q. He was near enough to hear? A. Yes.

Q. Now, is this not a fact, as near as you can remember, that the lines from the cruiser "Arcona" were placed and simply hauled taut and that no pulling was to be done until the signals were given, and then they were to pull hard—is not that the arrangement of it? A. You say there was to be no pulling?

Q. Well, no pulling other than to get the lines taut, on the "Arcona"?

(Deposition of J. J. Lowry.)

A. Well, there was a big weight on the wires all the time, but it was agreed that at midnight they should all pull hard together.

Q. You mean at high tide and not midnight?

A. High water. High water was about midnight, and when I say that I mean high water.

Q. Is it not a fact that there was only a strain to be kept on the lines until the time when they were to pull all together?

By Mr. OLSON.—OBJECTION, on the ground that it has been fully answered.

A. (By WITNESS.) There was a big weight kept on it all the time, on the "Arcona's" wires.

(By Mr. MAGOON.)

Q. How do you know that? [532—197]

A. I know because I tested it pretty frequently myself.

Q. What test did you make?

A. Felt it with the foot.

Q. And you felt that there was a heavier strain on the "Arcona's" wire than there was on the steamers of the Inter-Island wires or ropes?

A. Yes; there was more weight on the "Arcona's" wires than there was on the Inter-Island ropes.

Q. Could you tell us what was the object of this heavy strain on the "Arcona's" wire before the time agreed upon to pull?

A. I don't know what the object was but she was pulling all the time.

Q. As a matter of fact, nothing was to be gained by pulling until high water?

By Mr. OLSON.—OBJECTION, on the ground

(Deposition of J. J. Lowry.)

that it calls for a conclusion of the witness.

A. (By WITNESS.) There was a chance of our dragging off before high water, if there was sufficient weight put on it.

Q. Was there any change at all in the method of pulling by the "Arcona" from six o'clock in the evening until the "Celtic Chief" came off?

A. Any difference in the method of pulling?

Q. Yes.

A. I cannot swear to what method was used at all.

Q. Well, so far as you know?

A. As far as I know, she had her anchors down and was heaving on the windlass.

Q. Did you know anything about that yourself?

A. No, I cannot swear to that. [533—198]

By Mr. MAGOON.—I ask to have that part stricken out, that—"she had her anchors down and was heaving on the windlass."

Q. As far as you know, was there any difference in the method of pulling by the "Arcona" from six o'clock in the evening until the time the "Celtic Chief" came off? A. No.

Q. You don't know whether there was any difference in the strain on her wire or not, do you?

A. I know there was a big weight on the wires all the time.

Q. Now, you don't know anything about that when you were forward and her wires were aft?

A. I know there must have been a big weight on the best part of the time.

Q. Well, I simply want to know what you observed, from the time you went to bed until the ship

(Deposition of J. J. Lowry.)

came off you did not observe the wires of the "Arconia" at all. A. I could not say as to that.

Q. You say you don't know what the strain was?

A. During that time I did not.

Q. Well, that was the critical time, was it not, between the time you got up and the time the ship came off?

A. Yes, that was the time the pulling was doing the most good.

Q. So, as a matter of fact, you don't know what power it was that brought the "Celtic Chief" off the reef, do you?

A. No, I do not know which was the one that got her off; they were all pulling.

Q. Now, when you looked at the rope or the cables of the [534—199] cruiser "Arconia" last, were they sagging or were they straight?

A. They were pretty straight.

Q. Now, what do you mean by "pretty straight"?

A. I mean straight.

Q. No sag at all? A. No.

Q. Not a bit?

A. Well, there might have been a little; you could not keep a wire tight enough to be perfectly straight.

Q. Well, didn't it strike the water sometimes?

A. Oh, yes, they touched the water a little in the middle of them.

Q. That is, the strain was not even all the time, was it, as far as you observed?

A. Yes, it was pretty steady. I meant that there was a steady strain on them but they were bound to touch the water; they could not keep the wires tight

(Deposition of J. J. Lowry.)

enough to keep them out of the water all the time, because it would break the wire.

Q. When the wire was in the water you could not tell, so far as observing the level of the wire, whether it was taut or not, if it was in the water?

A. You can tell whether it was tight.

Q. How could you tell? A. Feel it.

Q. You were not feeling the wire all the time?

A. No, not all the time; I would have no time to do anything else.

Q. Well, if the wire was stretched from the stern of the "Celtic Chief" to the "Arconia" would it not be tight as far as you were concerned, on the "Celtic Chief," you could not tell? [535—200]

A. You could tell by the feel of the wire at our end.

Q. Would not a wire cable of this kind feel stiff if it was attached to the cruiser from the "Celtic Chief"?

A. You mean just hanging by its own weight?

Q. Yes. A. It would not be tight and stiff.

Q. Do you pretend that you could put this cable there where it was down on to the deck if it was attached from the cruiser to the "Celtic Chief," with your foot?

A. You can get it pretty close to the deck; you mean a wire hanging by its own weight?

Q. Yes, without any strain on it, and being attached from the "Arconia" to the stern of the "Celtic Chief," could you by your foot press that wire down there where it was attached, to the deck?

A. Yes, I believe I could.

Q. What is the distance that this wire was attached

(Deposition of J. J. Lowry.)
above the deck?

A. I think about fifteen or eighteen inches.

Q. Now, you say you believe you could put it down with your foot that fifteen or eighteen inches?

A. As long as the wire is hanging by its own weight. There is a distance of about fifteen feet between the pipe where it came through and where it was made fast around the mast.

Q. And in that space of fifteen feet you could by putting your foot on the wire, put it down to the deck?

A. As long as it was only hanging by its own weight, and there was no pulling on it and just the wire itself attached to the two vessels and hanging by itself. [536—201]

Q. You believe that? A. Yes.

Q. Did you try? A. No, I did not try.

Q. And as a matter of fact, does it not come to this, that you do not have any real definite idea as to what the strain was on the wire from the cruiser to the "Celtic Chief"?

A. I have a definite idea because it carried it away and broke the wire.

Q. And is that why you were telling us, because it broke the wire?

A. Well, I know there was a heavy strain because there was two strong-backs up and down the mast and that crushed those.

Q. And that is why you say?

A. That crushed those strong-backs.

Q. Is there any other reason why you say there was a heavy strain? A. I felt it.

(Deposition of J. J. Lowry.)

Q. In what way? A. With my foot.

Q. How did you feel it?

A. Tight; I pressed down with the foot.

Q. When were these strong-backs crushed, do you know?

A. No, I don't know when they were crushed.

Q. Now, as a matter of fact, a steady pull would not crush the strong-backs, would it?

A. Yes, a steady pull would crush them.

Q. Would it be any more likely to be crushed by a sudden jerk? [537—202]

A. Yes, more likely to crush them with a jerk, but it could be done with a steady pull too.

Q. So you don't have any idea from the condition of the strong-backs and the dent in the mast as to what time the heaviest strain was put on the cable of the cruiser "Arcona," do you? A. No, I do not.

Q. Did you observe the cruiser's lines after the "Celtic Chief" was afloat and she was being towed?

A. No, I could not do that because I was forward.

Q. How do you measure a steel rope, a wire cable?

A. The circumference of it.

Q. Not the diameter? A. No.

Q. Is that the English rule?

A. I think it is all over the world.

Q. How near did the "Celtic Chief" go to the stern of the cruiser "Arcona" after the "Celtic Chief" was floated?

A. Well, I did not pay much attention to that. I was away the other end of the ship.

Q. Could you give us any approximate idea?

A. No, I could not tell you when she came off. As

(Deposition of J. J. Lowry.)

far as I remember, the "Arcona" was dead astern of us, and I was at the forward end of the ship and could not see the distance between the two ships.

Q. Could you tell whether or not the "Celtic Chief" came nearer to the "Arcona" as she was being floated off or whether they retained their same relative positions?

A. I cannot say anything about that at all. I was forward at the other end of the ship. [538—203]

Q. Did you know when the lines of the Inter-Island boats were cast off?

A. I don't know the exact time.

Q. Did you know of their being cast off?

A. I knew they were being cast off.

Q. Could you tell at that time where the "Celtic Chief" was with reference to the "Arcona," whether she was nearer than she was when she was on the reef, or not?

A. She was nearer than she had been to her.

Q. She was nearer? A. Yes.

Q. You are sure of that? A. Yes.

Q. Where was she with reference to Captain Miller's anchor, the "Celtic Chief"?

A. I don't know.

Q. You don't know whether she had gone past the anchor or not? A. No, I don't know.

Q. Can you tell us, if it is a fact, how far the "Celtic Chief" went on the reef, further on the reef, after she struck first?

A. I did not notice any difference in the position, whether she went further up or not.

Q. Would it not be a natural tendency of the

(Deposition of J. J. Lowry.)

"Celtic Chief" to go further on the reef as she was lying there?

A. Well, it is expected to go further on; yes.

Q. And, as a matter of fact, when you were lightering the cargo which was relieving the vessel would not she go further on? [539—204]

A. You would expect her to go further on but I cannot say that I noticed her go further on.

Q. She may have done, gone further on without you noticing it? A. Yes, she could.

Q. Was there any way of measuring the exact distance between the point where she struck and the point where she lay when she was taken off the reef?

A. No, I do not think there is any way of measuring it, exactly.

Q. If she had gone one hundred feet further on would there have been any appreciable difference in your observations?

A. Yes, one hundred feet would have made a difference.

Q. Would fifty feet have made a difference?

A. You could have noticed fifty feet too, I think.

Q. Would twenty-five feet have made a difference which you could have noticed?

A. Well, I would not notice much difference then.

Q. Then, it is a matter of fact, is it not, safe to say that she might have gone fifty feet on the reef without there being much difference noticed in her position?

A. I think you would have noticed fifty feet.

Q. You think you would? A. Yes.

Q. What do you mean?

(Deposition of J. J. Lowry.)

A. I guess I would notice it by the bearings I had.

Q. You would not want to swear to that positively as to the exact distance? A. No.

Q. She might have gone twenty-five feet further on or [540—205] fifty feet and you would not be able to notice it?

A. I would notice fifty feet but I do not suppose twenty-five feet would make much difference.

Q. And you would not want to say that as you were lightering the cargo the "Celtic Chief" did not go further on the reef?

A. I would not say that she did not go, but I cannot swear as to whether she went there or not.

Q. Is it not a fact that so far as heaving on a ship is concerned, in the position of the "Celtic Chief" the only wise thing to do is to put a heavy anchor astern to hold her in position while the cargo is being lightered? A. Yes.

Q. And that was just what Captain Miller did?

A. Yes.

Q. And that would enable the ship to float if the strain was strong enough and enough cargo was taken out? A. Yes.

Q. On the other hand, I will put it to you, the uneven strain which pulling by steamers like the "Arconia" and the Inter-Island boats would not prevent the ship from going further on the reef, because it would not be steady, in the nature of things?

A. Not unless the ship, the steamers, had their anchors down, and then it would be practically the same thing as Captain Miller's anchor.

Q. But the pulling by vessels without being an-

(Deposition of J. J. Lowry.)

chored in front, being unsteady, would not prevent a ship from going further on the reef when it was being lightered unless they could pull it off? [541—206]

A. Well, I don't think the steamers would keep her from going further on if she wanted to go on.

Q. And as you would lighten up the "Celtic Chief" the slackening up of the cables would allow her to go further on? A. Yes.

Q. Did you see them put the anchors of the cruiser down?

A. I saw her let go one, just as she was getting into position, but I do not know about the other one.

(By Mr. WEAVER.)

Q. You have spoken of the cruiser pulling the "Celtic Chief" off with her two lines that night, and you were forward near the capstan, I believe, at that time, standing by the anchors?

By Mr. OLSON.—OBJECTION to the question, on the ground that it incorrectly states the testimony of the witness, the witness never testifying that the cruiser pulled the "Celtic Chief" off.

(QUESTION WITHDRAWN.)

(By Mr. WEAVER.)

Q. You were standing forward there that night just before the "Celtic Chief" left the reef?

A. Yes.

Q. From that position could you see whether or not the cruiser was dead astern?

A. You could see that she was astern.

Q. After she had begun to move off was there any

(Deposition of J. J. Lowry.)

change of position of the cruiser with regard to the "Celtic Chief"?

A. She came out on the starboard quarter.

Q. You could see that? [542—207] A. Yes.

Q. She did not maintain her position dead astern?

A. No.

Q. Could you at that time see the cruiser distinctly? A. Yes.

Q. She had a search-light out? A. Yes.

Q. You could see her plainly? A. Yes.

Q. From your observation of her could not you say that she was closer to the ship than she had been before you began to move off?

A. Yes, she was a little closer.

Q. How much? A. Just a few yards difference.

Q. You could see these lines running from the "Celtic Chief" to the cruiser at that time?

A. At the time we floated I could not because I was forward.

Q. Well, from forward could not you see the lines running from the cruiser, to the "Celtic Chief," even though you were forward?

A. Perhaps if I had looked for them but I was not looking for them.

Q. And she was off to the port quarter and a little closer? A. No, the starboard quarter.

Q. And a little closer? A. Yes.

Q. Did you see these lights fired, the shots fired as signals? [543—208] A. Yes.

Q. How long was that after you came out of the cabin? A. About twenty minutes.

Q. How long after you saw these shots fired was it

(Deposition of J. J. Lowry.)

before your ship was afloat?

A. About five or ten minutes.

Q. Do you speak of this then, the time between the first shot as a signal fired and the time you were afloat was ten minutes? A. About that.

Q. Was it ten minutes from the time the first signal was fired until the time when the ship was afloat and no longer in contact with the reef?

A. Yes, about ten minutes.

Q. How long between the signals was it?

A. I could not say.

Q. Was there any more than one signal?

A. Yes, but how many I don't know.

Q. Did they happen all at once or not?

A. They seemed to be in pretty rapid succession. I just saw the balls fired and that is all; I did not count them or take any particular notice of them.

Q. Then you only saw one signal, there was only one signal by the balls at one time?

A. There seemed to be four or five balls of fire one after the other.

Q. Well, apparently it was one signal and not several signals?

A. Well, it looked like one signal. It might have been several signals but I don't know. [544—209]

Recross-examination by Mr. LEWIS.

Q. In response to a question by Mr. Magoon you said that the "Celtic Chief" came off easy—directing your attention to that particular part of your testimony on cross-examination by Mr. Magoon, I will ask you whether or not her coming off was not by a gradual movement, that she did not come off

(Deposition of J. J. Lowry.)

with a rush after she first started to move?

A. No, she did not come off with a rush; she came off quickly but not with a rush.

Q. She came off evenly? A. Yes, smoothly.

Q. You said also in response to a question by Mr. Magoon that the steam winch and the hand capstan were not being used at the same time on Captain Miller's lines? A. No.

Q. Just explain why that is not the case.

A. Well, at one time we were using the steam winch. We were using it to get the cruiser's lines aboard, but during that time Captain Miller had the use of the forecastle-head capstan, and during the working of the cargo he could only use it at short intervals. He could not use it all the time, and when he could not use the winch he would go to the forecastle-head capstan.

Q. What were the colors of these lights which were shot off by the German officers on board the "Celtic Chief"? A. The colors?

Q. Yes.

A. Red and green, I think. Some were red and some were green.

Q. Any white?

A. I do not remember any white ones. [545—
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Q. Your memory is not quite plain on that?

A. No.

Q. There may have been some white ones?

A. There may have been, yes.

Redirect Examination by Mr. OLSON.

Q. You have spoken of this indentation in the

(Deposition of J. J. Lowry.)

steel mizzen mast of the "Celtic Chief" that was made by the line of the "Mauna Kea"—do you know how that indentation was made?

A. The line surging around the mast.

Q. Surging around the mast? A. Yes.

Q. When? A. Do you mean what time?

Q. When was that indentation made?

A. About eleven o'clock on Monday morning.

Q. What caused the indentation and the surging of the "Mauna Kea's" line?

A. The rope stretched for one thing; the rope streached and the hitches that were on the end, and the lashing slipped along the rope.

Q. Was that when the "Mauna Kea's" hawser parted? A. Yes, it parted then.

Q. Do you know whether or not the "Mauna Kea's" line parting was due to a jerk or a steady pull? A. I do not know.

Q. Did the line surge round the mizzenmast?

A. Yes.

Q. And that is what caused the indentation?

A. Yes. [546—211]

Q. What time was it that you came up from your sleep on Wednesday night?

A. About half-past eleven.

Q. You are sure it was very near to half-past eleven o'clock? A. Yes.

Q. Where did you go when you came up from your sleep? A. Went forward.

Q. Doing what? A. Standing by the anchor.

Q. About how much later was it that you first noticed the firing of these rockets or stars by the

(Deposition of J. J. Lowry.)

German cruiser's men from the "Celtic Chief"?

A. About half an hour after I went forward.

Q. Somewhere in the neighborhood of twelve o'clock? A. Somewhere about that.

Q. I think you testified that the vessel came off about twenty minutes later, about twelve-twenty; is that correct? A. Yes.

Q. Do you know whether or not there were any stars or rockets fired off by these German cruiser men at any other time than the time which you have testified?

A. No, I do not remember any other time.

Q. To what were you giving your attention during the period from the time you went forward until the vessel came off?

A. I was watching some channel lights.

Q. What was your duty at that time?

A. Standing by to let go the anchor when she came off.

Q. Then I take it that it was only occasionally that [547—212] you were observing what was going on astern? A. Yes.

Q. State whether or not some of these rockets or stars might have been fired off at other times when you were not observing.

A. They could have been; I was not watching all the time.

Q. Are you sure there was more than three lights or stars fired off at the time you spoke of?

A. Yes, more than three.

Q. You are sure of that? A. Yes, sure.

Q. Well, then, if the vessel came off about twenty

(Deposition of J. J. Lowry.)

minutes after she first began to move, about twelve o'clock, you were incorrect, were you not, in stating it was only ten minutes between the time she came off and the time of the firing of those rockets?

A. About ten minutes or a quarter of an hour.

Q. That was merely approximate then?

A. Yes.

Q. Might it have been later than twelve o'clock that these several stars were fired off?

A. I think it was after twelve o'clock.

Q. Neared to twelve-thirty? (WITHDRAWN.)

Q. How much later than twelve o'clock would you say?

A. I think it would be about ten minutes past twelve.

Q. State whether or not prior to that time you observed any stars or rockets fired off?

A. No, I never saw any.

Q. Where were you at the time the German cruiser broke [548—213] the "Celtic Chief" wire hawser which she was using in pulling on the "Celtic Chief"?

By Mr. LEWIS.—OBJECTION, on the ground that it is improper redirect examination.

By Mr. MAGOON.—We OBJECT to that too.

By Mr. OLSON.—The cross-examination brought out that it was a jerk that broke the cruiser's lines, and that is what I am directing my question to. (OBJECTION of both counsel withdrawn.)

Q. Where were you at the time the cruiser broke the "Celtic Chief's" wire which she was using?

A. Standing aft on the port side, on the main deck.

(Deposition of J. J. Lowry.)

Q. How was the cruiser pulling at that time on the hawser, if you know?

A. Do you mean in what direction?

Q. As to whether or not there was a steady strain or a jerk? A. There was a steady strain.

Q. At the time the hawser parted?

A. Yes. There was a steady strain on it.

Q. You testified on cross-examination by Mr. Magoon that the best method of getting a vessel off of a reef is by an anchor astern? A. Yes.

Q. Is that only possible by means of an anchor with a line from the anchor to the vessel, as Captain Miller's anchor was used?

A. Well, the same principle applies to a ship that has her both anchors down and heaving on them; it is the same thing. [549—214]

[Endorsed]: No. 116. Libellee's Deposition of J. J. Lowry. Filed Dec. 18, 1911. [550]

(At 12:05 a recess was taken until 1:30 P. M.).

AFTERNOON SESSION (1:30 P. M.)

[**Deposition of J. L. Brisco, for Libellee.**]

J. L. BRISCO, called in behalf of libellee, sworn.
(By Mr. OLSON.)

Q. What is your name? A. J. L. Brisco.

Q. Your first name is Joseph? A. Yes.

Q. What is your occupation?

A. Second officer.

Q. Of what? A. The "Celtic Chief."

Q. What nationality is the "Celtic Chief"?

A. English.

Q. Where is she at the present time?

A. At the Hackfeld wharf in Honolulu.

(Deposition of J. L. Brisco.)

Q. When did she come to Honolulu?

A. December the 5th.

Q. 1909? A. Yes, 1909.

Q. She is the vessel, is she not, that went ashore early on the morning of December the 6th outside of the harbor entrance to Honolulu? A. Yes.

Q. Were you aboard the "Celtic Chief" at that time? A. Yes.

Q. How long have you been second officer of the "Celtic Chief"? A. Seven months.

Q. How long have you been to sea?

A. Ten years. [551—215]

Q. How long have you held second mate's papers?

A. Two years and four months.

Q. Do you remember the going ashore of the "Celtic Chief"? A. Yes.

Q. About what time was it?

A. Three-thirty of December the 6th A. M.

Q. Don't you mean two-thirty on December the 6th? It might have been two-thirty?

A. Two-thirty?

Q. Your best recollection is three-thirty?

A. Yes.

Q. On December the 6th? A. Yes.

Q. Do you remember, do you not, the tug "Intrepid"? A. Yes.

Q. Did she have anything to do with the "Celtic Chief" while she was ashore? A. Yes.

Q. When did she come out?

A. She came out at eight o'clock on the morning of December the 6th.

Q. Were you on watch at the time the "Intrepid"

(Deposition of J. L. Brisco.)

came out? A. Yes.

Q. Did you hear any conversation between the tug and Captain Henry? A. Yes.

Q. What was that conversation?

A. The captain asked him how much he wanted and he said twenty thousand dollars. [552—216]

Q. What did Captain Henry say?

A. He said, "No."

Q. Then what was said?

A. He came down to ten thousand dollars.

Q. What did Captain Henry say to that?

A. He said, "No."

Q. What was further said?

A. Captain Henry said, "We will settle it when we get inside," and he said all right.

Q. State whether or not the "Intrepid" put a line aboard the "Celtic Chief :" A. Yes.

Q. How long was that line aboard the "Celtic Chief"?

A. From Monday morning at eight o'clock until twelve o'clock on Wednesday.

Q. That would be Wednesday, December the 8th?

A. Yes, December the 8th.

Q. Then what happened?

A. We started to go ahead.

Q. No, not on the 6th, I mean on Wednesday, what happened on Wednesday, at noon?

A. The rope was cut.

Q. Who cut it? A. I did.

Q. Under whose direction?

A. The captain's.

Q. Captain Henry? A. Yes.

(Deposition of J. L. Brisco.)

Q. Do you know why that line was cut?

A. Because the tug boat would not ease up and let us let it go. [553—217]

Q. Why did the "Celtic Chief" wish the tug to ease up and let her go?

A. So that we could get the cruiser "Arcona" in that position.

By Mr. LEWIS.—OBJECTION, on the ground that it is incompetent, irrelevant and immaterial, and hearsay, unless this witness is testifying to his own knowledge.

(By Mr. OLSON.)

Q. How do you know the reason for wanting the tug "Intrepid" to ease up so as to let her loose or because it was desired to put the cruiser in her position?

A. Because I could hear him singing out through the megaphone to let go, that he wanted the cruiser to come in there.

Q. Whom did you hear sing out through the megaphone? A. Captain Henry and the pilot.

Q. Pilot who? A. Pilot Macaulay.

Q. What did the "Intrepid" do upon being spoken to through the megaphone?

A. Didn't do anything.

Q. Then what was done?

A. The captain sent a letter over there.

Q. Then what?

A. Then I got orders to cut it.

Q. What happened to the hawser of the "Intrepid" when you cut it loose?

A. It started to go out.

(Deposition of J. L. Brisco.)

Q. Suddenly or slowly?

A. Slowly. [554—218]

Q. What became of that hawser?

A. It went in the water.

Q. What caused it to go in the water?

A. I suppose the tugboat going ahead.

Q. I want to know if anything further was done by you or anyone else on the "Celtic Chief" after cutting that line, with that line?

A. It was caught hold of and thrown out through the chock.

Q. Who caught it and threw it out through the chock? A. A couple of men.

Q. On board what?

A. On board the "Celtic Chief."

Q. State whether or not there was any strain on that line at the time you cut it.

A. There was a little but not much.

Q. State whether or not you observed that line at any other time prior to the cutting of the line.

A. I did not notice it.

Q. Didn't you notice it any time from the time it was put aboard until it was cut loose?

A. I did not take much notice of it.

Q. Did you notice it at all?

A. No, I did not.

Q. Do you know whether or not there was any strain on it?

By Mr. LEWIS.—OBJECTION, on the ground that it is incompetent, irrelevant and immaterial, and hearsay, the witness already testifying that he did not notice it.

(Deposition of J. L. Brisco.)

By Mr. OLSON.—I am asking the witness whether or not he noticed there [555—219] was any strain on that hawser from the time it was put aboard on Monday morning until it was cut loose on Wednesday.

By Mr. LEWIS.—I renew my OBJECTION, on the ground stated.

A. (By WITNESS.) I did not take much notice.

(By Mr. OLSON.)

Q. So you don't know?

A. No, I don't know.

Q. Were you off the "Celtic Chief" at any time during the time she was ashore? A. No.

Q. Where were you on the evening of Wednesday—no, at noon on Wednesday, December the 8th?

A. I was on the poop.

Q. Do you know the German cruiser "Arconia"?

A. Yes.

Q. Where was she at that time?

A. She had just come out to us and was astern of us.

Q. What did the cruiser do after you had cut loose the line of the "Intrepid"?

A. She run a rope from him to us.

Q. And then what did they do?

A. We made the rope fast and he took it to and he was heaving his ship in position.

Q. And then what did they do?

A. That rope carried away so they ran a small wire and they hove the ship in position with the wire.

Q. What did they do then?

(Deposition of J. L. Brisco.)

A. Then we sent our wire over to her.

Q. I will hand you this piece of wire which is marked [556—220] "Celtic Chief," "Claimant's Exhibit Captain Henry, B," and ask you if you recognize it? A. Yes.

Q. What is it?

A. A piece of our wire that went to the German cruiser.

Q. What was done with the "Celtic Chief's" wire hawser that was taken by the cruiser?

A. They took it aboard and we made it fast around the mizzenmast.

Q. About what time was that made fast?

A. About one o'clock.

Q. Then what did the cruiser do?

A. The cruiser hove it in and got a little strain on it.

Q. How long did that continue?

A. I did not see much after that as we were busy around the main deck.

Q. Do you know whether or not the cruiser continued to pull on that hawser?

A. By the strain that was on it it must have done.

Q. Did anything happen in the course of the afternoon to the line? A. It carried away.

Q. About what time was that?

A. About half-past two.

Q. Did you see the line just prior to its being carried away? A. Yes.

Q. State whether or not there was any strain on it.

A. There was a good strain on it. [557—221]

Q. How could you tell that?

(Deposition of J. L. Brisco.)

A. It was right across the main deck and you could jump on it.

Q. Did you see the line extending from the "Celtic Chief" out to the steamer?

A. No, I did not see the line.

Q. What happened after the carrying away of that line?

A. Took it aboard the German cruiser to splice it.

Q. Then what did they do?

A. Then they gave it back again.

Q. When was that?

A. That would be about half-past three.

Q. Then what else did they do?

A. Then they gave us their wire.

Q. What kind of a wire was that?

A. It was a wire similar to that one only larger.

Q. You think it was larger? A. Yes, it was.

Q. Whose line was that? A. The German's.

Q. Then what did they do?

A. Then they started to get a steady strain on both the lines.

Q. How soon did they get a steady strain on both the lines?

A. I think it was six o'clock when they had a steady strain on both the lines.

Q. Did you notice those lines at that time?

A. Yes.

Q. State whether or not there was any strain on them. [558—222]

A. Yes, there was a strain on them.

Q. How much of a strain?

A. There was a good strain on them.

(Deposition of J. L. Brisco.)

Q. How could you tell?

A. I could see them.

Q. How did they look?

A. They looked tight.

Q. What do you mean by being tight, straight out?

A. Yes, straight out.

By Mr. LEWIS.—OBJECTION, on the ground
that it is leading. (QUESTION AND ANSWER
WITHDRAWN.)

(By Mr. OLSON.)

Q. What do you mean by saying that they looked
tight?

A. They were stretched out, straight out.

Q. How long did they continue in that position?

A. The last I saw of them they were like that; it
started to get dark and there was still a good strain
on them.

Q. Where were you about twelve o'clock?

A. I was on the poop.

Q. At twelve o'clock on Wednesday night, Decem-
ber the 8th, where were you? A. On the poop.

Q. What, if anything, happened at that time?

A. What is that?

Q. What if anything, happened about that time?

A. That is just about twelve o'clock and the ship
just moved a little.

Q. The "Celtic Chief"?

A. Yes, the "Celtic Chief." [559—223]

Q. State whether or not you had observed any mo-
tion of the "Celtic Chief" prior to that time.

A. No, I did not notice anything.

Q. Which way was she moving?

(Deposition of J. L. Brisco.)

A. Moving astern.

Q. That is seaward? A. Yes, seaward.

Q. When did she come off the reef?

A. Twenty minutes past twelve.

Q. Did you observe the lines from the "Celtic Chief" to the German cruiser during that period from twelve until she came off?

A. Yes.

Q. State what was the condition of those wires with reference to the question of whether or not they had a strain on them.

A. They had a good strain on them.

Q. Constantly? A. Yes.

Q. What happened after she came off?

A. We cut the other steamers adrift and let go that stern anchor.

Q. Do you remember seeing any of the German cruiser men aboard the "Celtic Chief" that night?

A. Yes.

Q. About what time?

A. I noticed an officer and one man on the poop.

Q. When?

A. He was there at half-past eleven.

Q. How long did they stay there?

A. Stayed until that ship came off. [560—224]

Q. What were they doing there?

A. Well, the officer was taking bearings and the man was just standing by the officer.

Q. What happened, was anything done?

A. With the pistol and stars.

Q. What was done with that pistol?

A. As soon as the ship moved the first time he

(Deposition of J. L. Brisco.)

threw one star.

Q. Shot the pistol off?

A. Yes, and one star.

Q. About what time was that?

A. That would be about five minutes to twelve.

Q. And then what was done with the pistol?

A. Then after that they were watching the bearings and she was moving and they fired two.

Q. About how much later?

A. About ten minute later.

Q. And then what was done with the pistol?

A. Then they saw the ship was off and there was three fired.

Q. At the time she came off?

A. At the time she was floating.

Q. Do you know what those signals meant?

A. Yes.

Q. How do you know?

A. Because I had heard it.

Q. Heard whom?

A. Heard the officer of the cruiser telling the pilot.

Q. What did he tell him?

A. One, she is moving, two, she is coming slowly, and three, she is afloat. [561—225]

Q. Who was on the poop deck at the time this conversation took place, as far as you remember?

A. The captain was there and the pilot; the German officer, myself and that is all I can remember.

Q. What was the color of those stars?

A. Green.

Q. All of them? A. Yes, all of them.

Q. Did you observe the lines running from Cap-

(Deposition of J. L. Brisco.)

tain Miller's stern anchor to the "Celtic Chief," during that period from twelve o'clock until she came off? A. Yes.

Q. Was there any strain on it?

A. There was a good strain on it just at five minutes to twelve.

Q. How about it after the ship began to move?

A. As soon as the ship started to move the strain went and they hove in on it.

Q. What about the German cruiser's lines in the same respect? A. They had a good strain on.

Q. What would happen to them when she moved?

A. Slacked up a little and they tightened up again.

Q. And that went on how long?

A. That was going on until she came right off.

Q. How was the weather during the time that the "Celtic Chief" was on the reef?

A. It was fine weather with a little southerly swell.

Q. A southerly swell in the sea?

A. Yes.

Q. State whether or not there was any danger or risk [562—226] to any of the vessels that were pulling on the "Celtic Chief" during the salvage operations. A. No, I should not think so.

Q. State whether or not there was any danger to any of the men engaged on those vessels. A. No.

Q. Do you remember any lightering done by the Miller Salvage Company's lighters or boats?

A. Yes.

By Mr. MAGOON.—Is not this all cumulative?

By Mr. OLSON.—Well, I am not going into the question of lightering.

(Deposition of J. L. Brisco.)

Q. State whether or not there was any danger or risk to the boats or line of the Miller Salvage Company in the course of the lightering operations.

A. No.

Q. To any of the men employed in those lightering operations? A. No.

Q. State whether or not you know whether any lightering was done by the Inter-Island Steam Navigation Company's boats. A. Yes.

Q. Any danger to those boats? A. No.

Q. Any danger to the men engaged in those boats?

A. No.

Q. Was there any bumping of the "Celtic Chief" during the time she was on the reef? A. Yes.

[563—227]

Q. Hard or easy? A. Pretty hard.

Q. When? A. On Monday and Tuesday.

Q. How often would those bumps come?

A. About five or six times in a day.

Q. That you remember?

A. Yes, that I remember.

Q. Did you take any soundings? A. Yes.

Q. When?

A. Half-past eleven on Wednesday.

Q. Where? A. All round the ship.

Q. What were your results? What did they show? A. Three and a quarter fathoms.

Q. Where? A. All round.

Cross-examination by Mr. LEWIS.

Q. This dickering that took place between the "Intrepid's" captain and Captain Henry just at the time the "Intrepid" took hold, that did not last more than

(Deposition of J. L. Brisco.)

five or ten minutes, did it?

A. When she took hold?

Q. Yes. A. That is all.

Q. So that after the "Intrepid" hailed you and until she got her line aboard the amount of time consumed was about five or ten minutes?

A. That is about it. [564—228]

Q. Did you see this wire, Captain Henry's Exhibit "B," break? A. I did not see it break.

Q. You did not see it break? A. No.

Q. How do you know that it was a strain that broke the wire?

By Mr. OLSON.—OBJECTION, on the ground that it is incorrectly stating the testimony of the witness, the witness not having said that it was a strain that broke the wire.

A. (By WITNESS.) I should have thought it was the strain by the strain that was on it just before it carried away.

(By Mr. LEWIS.)

Q. Then it is a mere conjecture or guess on your part? A. No.

Q. What is that? A. No.

Q. You did not see the wire break?

A. No, I did not see the wire break.

Q. Then how do you know that it was the strain that broke the wire? Is it not a guess or presumption on your part?

A. Well, I should have thought it was the strain that broke the wire by the strain that was on it.

Q. Yes, but if you will mind what I have in mind is this, you did not see the wire when it broke?

(Deposition of J. L. Brisco.)

A. No, I did not.

Q. Then you don't know whether there was a strain on the wire at that time or not, do you?

A. Yes, there was a strain on it. [565—229]

Q. You say that about six P. M. the cruiser "*Arconia*" was in position with a strain on her lines attached to the "*Celtic Chief*," where were you at that time that you noticed that? A. On the poop.

Q. How long did you remain on the poop after six P. M.? A. About five minutes.

Q. Then where did you go? A. To get my tea.

Q. How long were you at tea?

A. About half an hour.

Q. And then where did you go after tea?

A. Knocked around the deck.

Q. Do you mean by that the main or poop deck?

A. Main deck and around the poop.

Q. Where were you most of the time—on the poop or on the main deck? A. On the main deck.

Q. Whereabouts on the main deck?

A. I was walking around watching them discharge. Watching Captain Miller's work there.

Q. Who was discharging at that time?

A. The Inter-Island.

Q. From what sides of the vessel were they discharging at that time, both sides?

A. On the port side aft and the starboard side, main hatch.

Q. How long did that continue that evening—it continued up until about the time the ship came off, didn't it?

A. Yes, it would be about half-past eleven or a

(Deposition of J. L. Brisco.)

quarter to twelve. [566—230]

Q. There was a donkey-hoist on a barge on the port side of the “Celtic Chief” that evening, was there not? A. Yes.

Q. Which hatch did you work with that donkey barge? A. The main hatch.

Q. How did you work that hatch?

A. With the port barrel of our donkey.

Q. Where did you say you were at twelve o’clock on that evening of Wednesday? A. On the poop.

Q. And after twelve o’clock how long did you continue to remain on the poop?

A. Until about half-past one.

Q. Continuously? A. Yes, all the time.

Q. When the “Celtic Chief” was on the reef and before she came off how was the stern of the boat headed with reference to the cruiser “Arcona”?

Br. Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination.

(By Mr. LEWIS.)

Q. How was the stern of the “Celtic Chief” pointed as she lay on the reef, with reference to the “Arcona”?

A. Pointing straight to the “Arcona.”

Q. As she was floated and when she was just getting clear of the reef how was the stern then bearing, with reference to the “Arcona”?

By Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination. [567—231]

(By Mr. LEWIS.)

Q. In other words, when she came off, when the “Celtic Chief” came off didn’t she begin to bear

(Deposition of J. L. Brisco.)

towards your own starboard side, of the "Celtic Chief"?

By Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination.

A. (By WITNESS.) On the starboard side the "Arconia" was.

(By Mr. LEWIS.)

Q. That is the starboard side of your own boat?

A. Yes.

Q. It commenced to veer towards the starboard side of your own ship? A. Yes.

Q. Just as the "Celtic Chief" left the reef, just after she was floated, how close did the stern of the "Celtic Chief" approach the stern of the "Arconia"?

By Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination.

A. (By WITNESS.) I should say about two ship's-lengths away.

(By Mr. LEWIS.)

Q. You mean by that your own ship, that is, two ship-lengths of the "Celtic Chief"? A. Yes.

Q. You stated in your direct examination that you took soundings at eleven-thirty on Wednesday and found three and a quarter fathoms around the entire ship? A. Yes. [568—232]

Q. These soundings were taken by you personally?

A. By me; yes.

Q. With a lead, I presume?

A. Yes, with the hand lead.

Q. In the customary manner? A. Yes.

Q. Now, did you take any soundings after half-past eleven on Wednesday? A. No.

(Deposition of J. L. Brisco.)

Q. I understand that is A. M. on Wednesday?

A. Yes, A. M.

Q. You stated that you were about the deck of the "Celtic Chief" on the evening of Wednesday and I ask you if while you were on deck there did you at any time notice any red lights put up in the rigging?

A. Yes.

Q. About what time were they put up?

A. One was put up at sunset and there was another one put up between half-past ten and eleven o'clock.

Q. The one which was put up in the rigging between half-past ten and eleven o'clock, how was that placed with reference to the other red light?

A. About six feet below it.

Q. And how with reference to a perpendicular position, immediately underneath it?

A. Yes, right underneath it.

Q. And this as you say was between ten and eleven o'clock on Wednesday evening? A. Yes.

Q. Did you see that done personally? [569—233]

A. Yes.

Q. Where were you standing when that was done?

A. I did it.

Q. How long did these lights remain up there?

A. They were up there until we dropped anchor.

Q. Where did you drop anchor?

A. Just by the bell buoy.

Q. That was after the "Arcona" had towed you out to sea and the hawser had been transferred to the "Likelike" and she brought you back to the bell buoy? A. Yes.

(Deposition of J. L. Brisco.)

Q. That is correct, is it? A. Yes.

Cross-examination by Mr. MAGOON.

Q. Did you see the captain come up out of the cabin just before the boat was floated?

A. I was with the captain on the poop just before she was floated.

Q. Did you see where the captain was, say, half an hour before she was floated?

A. Yes, he was alongside the chartroom.

Q. Down in the cabin? A. No, on deck.

Q. How long had he been on the poop or on deck before the boat was floated?

A. He was on and off all the night.

Q. You did not miss him at all from the deck that night?

A. No, I did not miss him; he used to go down and come up.

Q. Well, was he down in the cabin within an hour of the [570—234] time that the boat was floated?

A. He might have been down once.

Q. Could you say how long he remained down?

A. No, I cannot say how long he remained down.

Q. Was anyone with him when he was down in the cabin? A. I don't know that.

Q. You did not go in the cabin to see? A. No.

Q. But you are perfectly sure that the captain was on deck when the ship was floated? A. Yes.

Q. And he had been some little time there before she began to move? A. Yes.

Q. Did you hear the captain give any orders with reference to the rockets?

A. No, I did not hear the captain give any orders.

(Deposition of J. L. Brisco.)

Q. Did you hear anyone give orders?

A. The German officer.

Q. What did he say?

A. He told the man to fire; he spoke in German and as far as I could understand he told him to fire.

Q. Do you understand German? A. No.

Q. When you said he told the man to fire you are guessing at it?

A. Yes, because the man went and fired.

Q. You don't know whether he told him to fire one or half a dozen, do you? A. No.

Q. As a matter of fact, what is the length of the space [571—235] of time between the firing of the first rocket and the next firing?

A. About ten minutes.

Q. What makes you think it was about ten minutes? A. Well, I guess ten minutes.

Q. Two rockets were fired? A. Yes.

Q. After that how long was it before the next rocket was fired? A. About five minutes.

Q. Did you notice any unusual motion before the ship, before you observed that the ship was moving?

A. No.

Q. No pounding, no heavy bumping?

A. On Monday and Tuesday there was heavy bumping.

Q. No, just prior to coming off? A. No.

Q. What was the first thing that directed your attention to the fact that the ship was coming off?

A. By the bearings.

Q. How far had she come off, do you think, when you first observed the bearings?

(Deposition of J. L. Brisco.)

A. She could not have come far; she just moved and that was all.

Q. You would not want to say how far she was?

A. No, I cannot say how far.

Q. You could not give us the distance between ten and a hundred feet? A. I would not like to say.

Q. How far do you think the ship had been moved before the first signal was given? [572—236]

A. I could not say that.

Q. What time do you think it was when you first observed that the ship was moving?

A. Twelve o'clock.

Q. Could it have been later than twelve?

A. No, I do not think it was later.

Q. What makes you say it was twelve o'clock?

A. Well, about half-past eleven, it would be half-past eleven when I went and got two of the boys.

Q. What boys, Captain Miller's boys?

A. No, the boys, the apprentice boys.

Q. What did you do with them?

A. They were having a sleep and I went and called them.

Q. How do you know it was half-past eleven then?

A. I saw the watch.

Q. Did you have a watch of your own?

A. I have one, but I saw one of the boy's watches.

Q. Which boy's? A. Smith is his name.

Q. Did you ask him to show it you?

A. No, I saw his watch hanging up in the half-deck.

Q. You looked at it? A. Yes.

Q. What for? A. To look at the time.

(Deposition of J. L. Brisco.)

Q. Any reason to look at it—only a matter of curiosity?

A. I wanted to know the time and I had a look at the watch.

Q. And it was just half-past eleven?

A. Yes. [573—237]

Q. And then you went and called the boys?

A. Yes.

Q. Then where did you go? A. Aft.

Q. With the captain? A. Yes.

Q. You are sure he was there then? A. Yes.

Q. Was the captain on the poop when you went to call the boys? A. Yes.

Q. How long had the captain been on the poop, standing there when you went to call the boys—about how many minutes?

A. He was standing there five or ten minutes talking to me and I went down to the boys.

Q. Immediately before he was talking to you what was he doing there? A. Walking around.

Q. Walking there on the poop? A. Yes.

Q. Could you say he was there on the poop without going any other place about half an hour prior to your going to call the boys?

A. I cannot say that.

Q. Well, I want the best of your recollection.

A. Yes, I guess he would be.

Q. So then the captain must have been on the poop from about eleven o'clock, according to the best of your recollection, until the ship came off?

A. Yes.

Q. Without going any other place, simply staying

(Deposition of J. L. Brisco.)

right [574—238] there on the poop?

A. He might have walked in the chartroom to get a smoke and come out again, not stopping in the same place all the time.

Q. But not absent from the poop over a minute?

A. No.

Q. And you are sure that for five minutes before you went to call the boys until the ship came off he was on the poop all the time? A. Yes.

Q. Now, can you tell whether or not the rockets were fired before you went to call the boys?

A. They were fired afterwards.

Q. How long after you went to call the boys was it that the rockets were fired?

A. About half an hour.

Q. Now, you said that you were going around the deck watching Captain Miller's men—what time was that?

A. Well, I was walking around between eight o'clock and twelve; between eight o'clock and half-past eleven for sure.

Q. You took tea one time? A. Oh, yes.

Q. What time did you take tea?

A. Just after six o'clock.

Q. Then you were not watching Captain Miller's men at six o'clock or about six o'clock?

A. I had a look at the men.

Q. What were they doing between eight o'clock and twelve o'clock, his men? [575—239]

A. Most of them were on the forecastle-head standing by the capstan.

Q. Were they working the capstan?

(Deposition of J. L. Brisco.)

A. They were not when I was up there.

Q. They were standing by ready to work it?

A. Yes.

Q. When was the last time you saw them standing by the capstan ready to work it?

A. Eight o'clock.

Q. You did not observe them after that, whether they were working it or not? A. No.

Q. Could you tell with what it was they were pulling when the ship came off, whether it was the winch or the capstan?

A. I am not sure about whether it was the capstan or the winch as I was on the poop at the time.

Q. So you could not tell?

A. No, I could not tell.

Q. Did you see them working the capstan at times?

A. Yes.

Q. Did you see them working the winch at times?

A. Yes.

Q. You said that the strain on Captain Miller's rope was great? A. It was a good strain on it.

Q. A very good strain? A. Yes.

Q. Could you tell which was the greatest strain, whether the "Arcona's" or Captain Miller's?

A. I could not tell. [576—240]

Q. How could you tell that the strain on Captain Miller's line was very great?

A. By standing on it.

Q. It was rigid—taut, very taut?

A. Yes, pretty taut.

Q. A constant strain?

A. Yes, there was a good strain on it.

(Deposition of J. L. Brisco.)

Q. Did you see the anchor of Captain Miller put down? A. Yes, I saw it dropped.

Q. And that was in a direct line with the cruiser too, was it not? A. Yes.

Q. After the "Arcona" was got in position?

A. Yes.

Q. Could you tell whether or not the "Celtic Chief" went further on the reef after she first struck, or not?

A. I cannot tell that.

Q. You could not tell? A. No.

Q. You say she bumped four or five times a day?

A. Five or six times a day.

Q. She would not bump then every few minutes, four or five times an hour? A. No.

Q. Could you form any conclusion in your own mind as to whether or not she was fast aground or floating? A. She was aground all right.

Q. Could you tell whether or not she had made a cradle for herself in the bottom?

A. I cannot tell that. [557—241]

Q. When the "Celtic Chief" began to move after you first observed her moving, she went very quickly out into deep water, didn't she? A. No.

Q. How slowly or how quickly?

A. She just went gradually off.

Q. Kept on moving all the time?

A. Yes, all the time.

Q. You could see she was moving all the time?

A. Yes.

Q. Didn't go for a foot or two and then stop, but kept gradually going until she got into deep water?

A. Yes.

(Deposition of J. L. Brisco.)

Q. No motion at all, as far as you could feel on the ship? A. No.

Q. Well, it didn't take very long to put her into deep water, did it?

A. About a quarter of an hour or twenty minutes.

Q. A quarter of an hour to put her into deep water?

A. Yes.

Q. Then she was not going very fast?

A. She was not going very fast.

Q. Very slow? A. Yes, very slow.

Q. Now you say that the line of the cruiser "Arconia" would slacken up and then they would tighten it up again? A. Yes.

Q. While the ship was moving off the reef?

A. Yes. [578—242]

Q. Could you account for that—how the line of the "Arconia" would be slack and then tightened?

A. No, I cannot account for that.

Q. You don't know why it was? A. No.

Q. Would that same thing take place with Captain Miller's line? A. Yes.

Q. Just as soon as the slack would make its appearance that slack would be taken in? A. Yes.

Q. And you could not tell whether that was done by the winch or the capstan?

A. I could not tell which it was.

Q. But Captain Miller's line was tight all the time?

A. Yes.

Q. Is it not a fact that the pull was to be made at high tide?

By Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination.

(Deposition of J. L. Brisco.)

A. (By WITNESS.) I don't know that.

(By Mr. MAGOON.)

Q. You don't know anything about that?

A. No.

Q. Did you form any estimate in your own mind as to what time the ship would float?

A. No, I did not.

Q. You were not watching for her to come off at twelve o'clock or any other particular time?

A. No. [579—243]

Q. Just standing by to take advantage of anything that occurred? A. Yes.

Q. Had you slept at all at the time the ship went on the reef?

A. Yes, I had a few hours now and again.

Q. Did the captain sleep at all?

A. I don't know that; I was not with him all the time.

Q. Did you take the bearings of the position of the ship on the reef?

A. Yes, I had a bearing of the ship.

Q. Did you have a bearing on the night that the ship came off? A. Yes.

Q. What bearings were they?

A. It was a red and white light.

Q. How far were they apart?

A. As far as I could make out they were pretty close together.

Q. On which side of the "Celtic Chief" were they?

A. The starboard side.

Q. That is on this side, was it?

A. Yes, the starboard side.

(Deposition of J. L. Brisco.)

Q. Were they directly in line or not in line?

A. They were not in a line.

Q. So you could judge though between, as to the position, with reference to these lights as to whether or not the opening was larger or smaller?

A. Yes.

Q. That is not a very accurate way of judging—only approximately? [580—244]

A. I think it is the best way.

Q. They would have to be directly in line to be very accurate?

A. No, you fetch them directly in line.

Q. But they were not in line?

A. No, they were not in line but as the ship went they came in one.

Q. And if they were not in line when the ship started you could not tell very well as to the distance the ship moved before the ship came in line?

A. No.

Q. It might be an hundred feet or more?

A. I don't think it was an hundred feet.

Q. Well, how far should you say it was before those two lights came in line that the ship moved?

A. I don't know that.

Q. Well, would you say it was fifty feet?

A. I could not say.

Q. You say that the "Celtic Chief" was discharged by means of the winch, the barrel on the port side?

A. Yes.

Q. The barrel on the other side was used by Captain Miller's hawser, was it not? A. Yes.

Q. Why do you say that the discharging continued

(Deposition of J. L. Brisco.)

Salvage Company boats had parted their lines while they were attached to the "Celtic Chief"?

By Mr. OLSON.—OBJECTION, on the ground that it is improper cross-examination.

By Mr. WEAVER.—He has testified that they were perfectly safe; and that therefore this is proper cross-examination.

A. (By WITNESS.) Yes, I think there was one or two ropes carried away.

Q. Forward or aft?

A. I know our fore brace carried away.

Q. Attached to what?

A. Attached to one of the lighters.

Q. One of Captain Miller's lighters? A. Yes.

Q. Was there any more than that?

A. One rope aft.

Q. How large was the fore brace you speak of?

A. A four-inch rope.

Q. Is that a rope that will stand some swell?

By Mr. OLSON.—OBJECTION, on the ground that the witness has not shown that he is qualified.

[584—248]

(By Mr. WEAVER.)

Q. In your experience as a seaman is that a proper kind of a rope to use for that lighter at that time and in that weather?

By Mr. OLSON.—OBJECTION, on the ground that the witness is not qualified.

(OBJECTION WITHDRAWN.)

A. No.

(By Mr. WEAVER.)

Q. It is not? A. No.

(Deposition of J. L. Brisco.)

Q. Was it too small? A. It was too small.

Q. Any other rope did you use—what was the size of this other rope that you spoke of?

A. That was one of Captain Miller's.

Q. Did that carry away? A. Yes.

Q. Didn't the swell cause that?

A. Yes, the swell.

Q. When these lighters were alongside the "Celtic Chief" what would be the relative position of the rail of the lighters and the rail of the "Celtic Chief" when these swells came along?

A. That old battle-ship, that lighter—I don't know her name.

Q. The "Kaimiloa," what was her rail, how was her rail placed with regard to the "Celtic Chief" when the swell would come along and be at the highest point?

A. It was just about two feet below. [585—249]

Q. And when the lower part of the swell came along how low would it be below?

A. Four or five feet.

Q. Only two or three feet between the two?

A. Yes, four or five.

Q. And was that as large a swell as you noticed at that time? A. Yes.

Q. Did you notice where the "Celtic Chief," or where the cruiser was behind the "Celtic Chief," just before the "Celtic Chief" was floated, what position she had? A. Right astern.

Q. And after the "Celtic Chief" was floated where was the cruiser?

A. A little on the starboard quarter.

(Deposition of J. L. Brisco.)

Q. Closer to the "Celtic Chief"?

A. Yes, a little.

Q. When the "Celtic Chief" got hove taut on the evening of Wednesday, before nightfall, you could see these lines running from the cruiser to the "Celtic Chief," couldn't you? A. Yes.

Q. What did those lines look like—were they straight or was the bight in the water?

A. Tight; the bight was out of the water.

Q. All the time? A. Yes.

Q. After nightfall could you see?

A. No, I could not see.

Q. How far could you see these lines after nightfall between the ship and the cruiser, from where you were? [586—250]

A. I could see them about thirty feet, I should say, from the ship.

Q. That is all? A. Yes.

Q. Could you see during the hours of darkness, as the night was then, whether or not those lines were taut or slack, from what you saw?

A. They were taut.

Q. How do you judge that?

A. Well, at ten o'clock they had the search-light on them.

Q. Well, in the darkness before ten o'clock could you tell? A. Yes.

Q. How could you tell they were taut?

A. I could tell because I could see about thirty feet away.

Q. Could you tell whether the bight was in the water or not—was it a clear night?

(Deposition of J. L. Brisco.)

A. Yes, it was.

Q. Starlight? A. Yes.

Q. Couldn't you see these lines halfway to the cruiser? A. Yes, I could see about halfway.

Q. And couldn't you see whether they were in the water?

A. They were not in the water, as far as I could see.

Q. Well, if you saw only thirty feet you did not see halfway to the cruiser—which is correct—could you see thirty feet or more?

A. Well, I know I could see thirty feet. [587—251]

Q. Well, were either of the lines from the cruiser to the ship straight or was there a sag in them?

A. They were straight as far as I could see.

Q. There was no sag? A. No.

Q. Just like you would pull a fiddle-string straight? A. Yes.

Q. And that continued up to what time?

A. That was like that all the time.

Q. After the search-light went on that night?

A. Yes.

Q. And up to the time that the ship came off what was the condition of those lines, the same straight as a string?

A. When the ship came off they slacked up a bit.

Q. And when you saw the cruiser off the starboard stern of the ship these lines were also straight?

A. No.

Q. What was the difference?

A. When she was off they would slack up.

(Deposition of J. L. Brisco.)

Redirect Examination by Mr. OLSON.

Q. How soon after you first noticed that the ship began to move, which you have said was about twelve o'clock on the night of Wednesday, December the 8th, was the first signal by rocket or star fired by the German on board the "Celtic Chief"?

A. Well, as soon as we noticed her move it was fired.

Q. Almost immediately?

A. Yes, almost immediately. [588—252]

[Endorsed]: No. 116. Libellee's Deposition of J. L. Briscoe. Filed Dec. 20, 1911. [589]

[Deposition of Marius Sorensen, for Libellee.]

MARIUS SORENSEN, called on behalf of libellee, sworn.

(By Mr. OLSON.)

Q. What is your name? A. Marius Sorenson.

Q. What is your occupation?

A. Norwegian; carpenter.

Q. Ship's carpenter? A. Yes.

Q. On board of what ship?

A. "Celtic Chief."

Q. A British ship? A. Yes.

Q. Where is she?

A. At the Hackfeld wharf in Honolulu.

Q. When did she come to Honolulu?

A. I cannot tell you the date of that.

Q. Do you remember going aground last December? A. Yes.

Q. Outside the harbor entrance to Honolulu?

A. Yes.

(Deposition of Marius Sorensen.)

Q. Do you remember the date when she went aground? A. No, I cannot tell you.

Q. It was early in December? A. Yes.

Q. Of last year? A. Yes.

Q. Do you know whether or not there is a steam winch on board the "Celtic Chief"?

A. Yes, I drive that myself.

Q. You drive that yourself?

A. Yes. [590—253]

Q. While the "Celtic Chief" was on the reef do you know whether or not Captain Miller of the Miller Salvage Company had anything to do with helping to get the "Celtic Chief" off?

A. I cannot tell you that. He came out in the night and that day was using the winch. I could not tell you that.

Q. Do you recognize Captain Miller, the gentleman sitting over here to your left? (Pointing to Captain Miller.) A. Yes.

Q. You recognize Captain Miller? A. Yes.

Q. Was he out there on the "Celtic Chief"?

A. Yes.

Q. On Wednesday? A. Yes.

Q. That is the day before she came off?

A. She came off in the night between twelve and one o'clock.

Q. Did you observe the hawser that went from the "Celtic Chief" out to Captain Miller's anchor?

A. I did not take any notice of that at all.

Q. Did you observe any tackles on the "Celtic Chief"? A. Yes.

Q. Attached to a hawser there? A. Yes.

(Deposition of Marius Sorensen.)

Q. Was the steam winch used at all in heaving in on those tackles?

A. She was hove in about four or five o'clock in the afternoon; at dinner-time there was—I cannot exactly say, but they were using the winch for heaving but whether it was for heaving tight or shifting anything I don't know. [591—254]

Q. You were at the engine?

A. No, I was at the donkey-boiler; that other apprentice was driving the winch, but there was two gangs heaving on that so I had to keep steam up. When they were working over that hold there was two gangs working there.

Q. Well, was the winch used for the purpose of heaving in on those tackles which were attached to the hawser?

A. Well, they had a turn on the winch end there, Captain Miller's men.

Q. Before five or six o'clock on Wednesday had this winch been used for heaving in on the tackles?

A. Yes.

Q. From one o'clock on?

A. They were used sometimes and sometimes not.

Cross-examination by Mr. WEAVER.

Q. What time did you first notice this winch used?

By Mr. OLSON.—OBJECTION, on the ground that it is indefinite—when do you mean, when the vessel was on the reef or when she was starting?

A. (By WITNESS.) What for, sir?

(By Mr. WEAVER.)

Q. For the purpose of heaving.

A. What heaving, sir—heaving cargo or what?

(Deposition of Marius Sorensen.)

Q. You have been saying that you saw Captain Miller using this winch to heave in on the tackles—what time and day did you notice that?

A. Just in the dinner hour.

Q. What day.

A. What? Wednesday, dinner-time, I think.

[592—255]

Q. How long did that continue?

A. I cannot remember that. I did not take much notice of the days and that.

Q. This was Wednesday you are speaking of, the day before the ship came off?

A. Yes, she came off in the night.

Q. And it was dinner-time, at noon, that you first noticed this winch used? A. Yes.

Q. How long was it used?

A. They were using it three or four times.

Q. Five minutes at a time?

A. I cannot tell you exactly the time.

Q. Half an hour? A. I cannot tell you.

Q. All together how much was it used that afternoon?

A. I don't know. I did not take much notice of that; they were heaving cargo at the same time and I did not take much notice.

Q. Can you say whether that winch was used for five minutes all together that afternoon, before dark of Wednesday?

A. They broke it once and they were heaving three or four times on it; a couple of hours, I don't know how many, they were using it.

Q. Was it used half an hour all together?

(Deposition of Marius Sorensen.)

A. I think over half an hour.

Q. Well, was it used one hour all together?

A. I cannot tell that; I cannot say how many hours they were using it; I have no time by me.

Q. Did you refuse to let it be used at any time by [593—256] Captain Miller's men?

A. What is that?

Q. Did you refuse to let this winch be used by Captain Miller's men at any time on Wednesday afternoon or evening? A. In the evening.

Q. Any time that Wednesday afternoon or evening? A. I did not refuse anyone.

Q. You did not interfere in any way?

A. No, I did not interfere with anyone. I had orders to keep the steam on it and that is all. Who was to use it I cannot tell you; I had nothing to do with that.

Q. You testified, didn't you, that some of the blocks were Captain Miller's blocks?

A. What blocks, sir?

Q. That is all.

Cross-examination by Mr. LEWIS.

Q. What is your watch on board the "Celtic Chief," on Wednesday afternoon? A. Watch?

Q. Yes, what watch did you stand?

A. I had no watch at all then; I was working all day.

Q. What time did you quit work?

A. I quit work at six o'clock; no, I was standing by two days and one night.

Q. Well, on Wednesday, I understand you quit work at six o'clock? A. Yes, sir.

(Deposition of Marius Sorensen.)

Q. And you did not go on again?

A. No, I did not work any more after that.

Q. That is six o'clock P. M.?

A. Yes. [594—257]

[Endorsed]: No. 116. Libellee's Deposition of
M. Sorenson. Filed Dec. 20, 1911. [595]

[**Deposition of A. Gordon, for Libellee.**]

A. GORDON, called in behalf of libellee, sworn.

(By Mr. OLSON.)

Q. What is your name? A. Alexander Gordon.

Q. What is your occupation?

A. Apprentice aboard the "Celtic Chief."

Q. What nationality is the "Celtic Chief"?

A. A British ship.

Q. How long have you been on the "Celtic Chief"?

A. Two years and ten months.

Q. Where is the "Celtic Chief" at the present time? A. I believe it is the Hackfeld wharf.

Q. In Honolulu? A. Yes, Honolulu.

Q. When did she come to Honolulu?

A. On the 5th of December.

Q. Do you remember her grounding just outside the harbor entrance to Honolulu? A. Yes.

Q. Do you know whether or not there is a steam winch on board the "Celtic Chief"?

A. Yes, there is.

Q. Have you anything to do with that?

A. I was driving it while she was on the reef.

Q. What for? A. Discharging cargo.

Q. Anything else?

A. Well, it was used a little for heaving in some lines.

(Deposition of A. Gordon.)

Q. Whose lines? A. Captain Miller's.

Q. When? [596—258]

A. On the Wednesday morning.

Q. What for?

A. When he was setting up his anchor.

Q. Was it used after that in heaving in on that line? A. No, I don't think so.

Q. Do you know whether or not it was used that night? A. No, I don't think it was.

Q. Do you remember when the vessel came off the reef? A. Yes.

Q. At about what time was that?

A. That would be about a quarter past twelve.

Q. Do you know whether or not the winch was used at that time in heaving in on Captain Miller's line?

A. I don't think so.

Cross-examination by Mr. WEAVER.

Q. Was that winch used by Captain Miller when the vessel came off? A. I don't think so.

Q. How long was that winch used in the morning of Wednesday?

A. Well, it was going all of Wednesday.

Q. Well, it was used by Captain Miller on Wednesday, I think you said? A. Yes.

Q. How long a time was it used?

A. About an hour.

Q. All together? A. Yes.

Q. That is all it was used by Captain Miller that day or night? [597—259]

A. To my knowledge, yes.

Q. How do you know that—you had charge of this winch all the time, didn't you?

(Deposition of A. Gordon.)

A. No, I was relieved at six o'clock each evening.

Q. Did you work there until six o'clock on Wednesday? A. Yes, I was relieved at six o'clock.

Q. After six o'clock did you go on working?

A. No.

Q. Who took charge after you left?

A. There was two men but I don't know where they came from; stevedores, I think.

Q. Whose men were they—you don't know?

A. They were two stevedores.

Q. Not men of your ship? A. No.

Cross-examination by Mr. LEWIS.

Q. After you were relieved at six o'clock on Wednesday night where did you go?

A. Well, I had my tea and then turned in, and I was out on deck again about eleven o'clock.

Q. Well, these stevedores, as you say, who were handling the winch on Wednesday night, were the same men who were handling it on Tuesday night?

A. I cannot be sure; I don't remember now.

Q. What is your impression?

A. I cannot say whether they were or not.

Q. Were you about the main deck at all on Wednesday night? A. Yes.

Q. After eleven o'clock? [598—260]

A. I was aft underneath the break of the poop from eleven o'clock until the time she came off.

Q. Well, from the break of the poop the barrel of the steam winch on the starboard side is quite visible, is it not?

A. Well, it would be in the daytime.

Q. Did you see it there at that time that night?

(Deposition of A. Gordon.)

A. No, I did not take any notice of it.

Q. Well, as far as you noticed there on Wednesday night was there any use made of the steam winch to heave in on Captain Miller's lines?

A. I do not think it was used; I did not hear it going.

Q. That is all.

By Mr. OLSON.—That closes these depositions.

By Mr. LEWIS.—IT IS HEREBY STIPULATED AND AGREED between counsel in this case that these depositions may be kept open for the purpose of acquiring the ship's papers from the British consul for the purpose of identification for proof of value.

By Mr. OLSON.—No, for any purpose for which counsel may offer the same.

By Mr. LEWIS.—Yes, that will do.

By Mr. OLSON.—Subject to objections that may be made thereto.

By Mr. LEWIS.—Yes, that is all right.

(Adjournment was here taken until ten o'clock to-morrow morning, at the office of the Clerk of the United States District Court.) [599—261]

[Endorsed]: No. 116. Libellee's Deposition of A. Gordon. Filed Dec. 20, 1911. [600]

Tuesday, February 1st, 1910 (10 A. M.).

The parties in the above-entitled cause met, pursuant to adjournment, at the office of the Clerk of the United States District Court, and by agreement adjourned immediately to the courtroom of the United States District Court, where the following

proceedings were had:

By Mr. LEWIS.—I would like to have the record show that His Imperial Britannic Majesty's Consul, Ralph Forster, was present, pursuant to a request by counsel for libellants, the Inter-Island Steam Navigation Company and Matson Navigation Company.

[**Deposition of Captain Henry, for Libelants.**] [601—262]

Captain HENRY, called in behalf of libellants.
(By Mr. LEWIS.)

Q. Captain Henry, I now present to you a document or paper entitled, "Certificate of British Registry," which has just been handed to me by His Britannic Majesty's Consul, Mr. Ralph Forster, and I ask you if you have ever seen this document before?

A. Yes, I have.

Q. State, if you know, how that document came in the possession of Mr. Forster—you delivered that to Mr. Forster? A. Yes, I did.

Q. What is that document?

A. It is the "Celtic Chief's" register.

Q. How did that come into your possession?

A. I got it when I took command of the ship.

Q. It was on board of the ship?

A. No, it was not.

Q. Where did you get it? [601—262]

A. It was at the Customs.

Q. Where? A. In England, at Port Talbot.

By Mr. LEWIS.—I now offer this document in evidence and ask that permission be given for it to be withdrawn, owing to the fact that the document is in the possession of His Britannic Majesty's Con-

(Deposition of Captain Henry.)

sul, pursuant to certain proceedings had before the consul.

By Mr. OLSON.—I suggest that there ought to be a copy of this by stipulation of counsel.

By Mr. LEWIS.—Yes, and that a copy be introduced in lieu of the original, and that the copy be marked, "Lewis' Libellants' Exhibit # 2."

By Mr. OLSON.—IT IS HEREBY STIPULATED by and between counsel for all of the libellants and counsel for claimant that a copy of the Certificate of British Registry thus offered in evidence may be filed with the Commissioner in place of the original.

By Mr. WEAVER.—I will agree to that.

By Mr. LEWIS.—I will stipulate that.

By Mr. OLSON.—That is agreeable. The offer of the document has been made, what is the purpose of this offer, Mr. Lewis?

By Mr. LEWIS.—The purpose of the offer is that it is the best evidence [602—263] of the character of the ship, being a British ship, and it is evidence of the ship's number, and the full particulars concerning the description and identification of the ship.

By Mr. OLSON.—I OBJECT to the evidence offered.

By Mr. LEWIS.—And further on the ground that when Captain Henry was on the stand testifying as to certain particulars relative to the description of the ship, both counsel for the Inter-Island Steam Navigation Company and Matson Navigation Company, and also counsel for the Miller Salvage Company, at that time made a demand upon Captain

(Deposition of Captain Henry.)

Henry for the production of this document, and they were informed that the same was in the possession of His Britannic Majesty's Consul, and it was thereupon agreed between counsel that an endeavor should be made to obtain the document now offered in evidence, from His Britannic Majesty's Consul and introduce the same here.

By Mr. OLSON.—In view of the foregoing stipulation, I do not object to the filing with the Commissioner of a copy in place of the original, the filing of the original being hereby expressly waived; but I OBJECT to the evidence so offered on the ground that it is incompetent, irrelevant and immaterial; that it is not the best evidence of the facts set out to be proved; and further, that it does not tend to prove any of the issues in the case. And further on the ground that it is hearsay.

(By Mr. LEWIS to Witness.)

Q. This document which you have just testified to, Captain Henry, is the only certificate of British registry of the "Celtic Chief" which you have? [603—264]

A. That is all.

Q. And this is the document which you have acted upon always as showing the nationality of your ship?

A. Yes, that is so.

Q. And every port of entry which you have visited? A. Yes, quite so.

Q. And this is the document which you presented here when you entered herein the harbor of Honolulu? A. Yes.

Q. To the Custom officials?

(Deposition of Captain Henry.)

A. Not to the Customs officials.

Q. To whom?

A. To His Britannic Majesty's Consul.

Cross-examination by Mr. OLSON.

Q. Captain, when did this certificate come into your possession?

A. When I was leaving Port Talbot.

Q. When was that? A. About June, 1907.

Q. Has that document been altered in any respect since that time? A. No.

Q. Not in any respect? A. No.

Q. It has been in your possession since that time?

A. Yes.

Q. Until you handed it to Mr. Forster, His Britannic Majesty's Consul, in Honolulu?

A. At all times, only when I visit a port and I give it up. [604—265]

By Mr. OLSON.—I now renew the OBJECTION that I have heretofore made.

By Mr. LEWIS.—In view of counsel's last statement I will ask Captain Henry:

Q. Referring to this document, whether or not the ship's official number is not 91,271?

A. 91,271, yes.

Q. I will further ask you if the data herein contained correctly describes the ship "Celtic Chief"?

By Mr. OLSON.—OBJECTION to the question, on the ground that it does not appear whether or not the witness is qualified to answer, whether he knows of his own knowledge.

A. (By WITNESS.) Yes, I believe it does.

(By Mr. LEWIS.)

(Deposition of Captain Henry.)

Q. Of your own knowledge?

A. Yes, as far as I know.

Recross-examination by Mr. OLSON.

Q. Where did you get the information upon which you state that the data therein contained is correct —you say—"as far as I know"?

A. Well, I have no information at all; the paper was just handed to me, and that is all.

Q. So that your information is obtained from that document? A. Yes, from that document.

By Mr. OLSON.—I again renew my OBJECTION. And I also move to strike the witness' answer to the question asked by counsel as to [605—266] whether or not the data contained in that certificate is correct, on the ground that the Captain's testimony is hearsay.

(Adjournment here taken.)

Honolulu, T. H., February 14th, 1910.

I HEREBY CERTIFY the foregoing to be a full, true and correct transcript of my stenographic notes taken in the above-entitled cause.

(Sgd.) RALPH A. KEARNS,

Reporter. [606]

[Title of Court and Cause—Nos. 115, 116, 117.]

Direct Interrogatories to be Propounded to
Fregatten Kapitaen Hermann Schroeder.

[734]

1. State your name, occupation and present position in your profession.
2. How long have you been in the German navy?

3. State fully what training you have had in navigation and maritime matters.
4. Are you acquainted with the German cruiser "Arcona"?
5. What was your position on the said "Arcona" while she was in the port of Honolulu in the month of December, 1909?
6. Do you know the tonnage and horse-power of the said "Arcona"? If so, state the same.
7. What donkey-engines, winches, tackles, anchors and hawsers did the "Arcona" have while so in the port of Honolulu? If any, describe the same fully as far as you can of your own knowledge.
8. Are you acquainted with the British ship named the "Celtic Chief," that was stranded in the harbor of Honolulu in the Territory of Hawaii from the 6th day of December, 1909, to the 9th day of December, 1909?
9. State whether or not the said "Arcona" had anything to do with the said "Celtic Chief" while so stranded. If so, what led up to the same? [735]
10. If you answer the first part of the last interrogatory in the affirmative, state what was done by the said "Arcona."
11. State whether or not you, or any other officer of the said "Arcona," if you know, examined the said "Celtic Chief," her position and condition while so stranded, and if so when such examination was made. If you made such examination, state what you found.

12. What assistance, if any, was being rendered to your knowledge to said "Celtic Chief" at the time of such examination?
13. What advice, if any, for the relief of the said "Celtic Chief" was given by you or in your hearing by any other officer of the said "Arcona" to the said "Celtic Chief" or those or any one in charge of her and to whom was the same given?
14. State whether or not the said "Celtic Chief" changed her position from the 7th of December, 1909, to the early morning of the 8th of December, 1909, and if so, what such change consisted of.
15. When, if at all, did the said "Arcona" go to the assistance of the said "Celtic Chief"?
16. What did the said "Arcona" do upon her arrival at the scene of stranding of the said "Celtic Chief"?
17. Describe the position taken by the said "Arcona." [736]
18. State whether or not the said "Arcona" laid out any anchors in connection with her operations for the relief of the said "Celtic Chief."
19. When were such anchors or anchor laid?
20. What use was made of such anchors or anchor?
21. Do you know the kind, size and weight of such anchors or anchor? If so, state the same fully.
22. How, if at all, were such anchors or anchor connected with said "Arcona"?
23. If you shall have testified that chains or a chain

connecting such anchors or anchor with said "Arcona" were heaved in, state what means were used for the purpose of heaving in such chains or chain.

24. How, if at all, was said "Arcona" connected with or made fast to said "Celtic Chief"?
25. If you shall have testified that the said "Arcona" was connected with said "Celtic Chief" by a line or lines, describe fully, if you know, the line or lines so used by the said "Arcona," stating in particular the size, condition and character thereof. Furnish, if you can, a sample piece of the line or each of the lines so used by the said "Arcona." [737]
26. State, if you can of your own knowledge, whether or not any test of the strength of any line so used by the said "Arcona" was made during her operations in connection with said "Celtic Chief." If so, what was the test, and what was the result thereof?
27. If you shall have testified that a line or lines were made fast from the said "Arcona" to the said "Celtic Chief," when were they made fast, giving as nearly as possible the precise times of day.
28. During what period or periods of time were such lines or line kept fast from said "Arcona" to said "Celtic Chief"?
29. State whether or not the said "Arcona" was made fast to the said "Celtic Chief" at the time of the floating of the said "Celtic Chief." If so, how?

30. Do you know whether or not any power or strain was exerted upon said lines during the time that each was kept fast from said "Arcona" to said "Celtic Chief"? If so, do you know how much? If so, state how much and what variations if any there were from time to time.
31. State whether or not during the period or periods that said "Arcona" was kept fast to the said Celtic Chief" the said line or lines were kept taut or otherwise.
32. If you shall have testified that an anchor or anchors were laid by and connected with said "Arcona," state whether [738] or not such anchor or anchors after being laid held fast during the said "Arcona's" operations in attempting to render assistance to said "Celtic Chief."
33. State what agencies besides the said "Arcona" were attempting to render assistance to said "Celtic Chief" from the time that said "Arcona" arrived at the scene of stranding of said "Celtic Chief" until the floating of said "Celtic Chief."
34. Relate fully what, as far as you observed, said agencies did during said last mentioned period of time in attempting to render assistance to said "Celtic Chief."
35. State, if you know of your own knowledge, whether or not during said last mentioned period of time, the lines by which the said last mentioned agencies were kept fast to

said "Celtic Chief" were kept taut or otherwise.

36. State what said agencies other than said "Arconia" did, as far as you observed, in attempting to render assistance to said "Celtic Chief."
- 36a. Relate fully and in detail everything that was done to your knowledge by the said "Arconia" in connection with her attempt to render assistance to said "Celtic Chief" at the time of the floating of said "Celtic Chief" and during the three hours immediately preceding said floating.
37. Relate fully and in detail everything that was done, to your own knowledge, by the said "Arconia" in connection with her attempt to render assistance to said "Celtic Chief" that has not already been testified to by you in answer to the foregoing interrogatories.
[739]
38. What, in your opinion, was the cause of the floating of the "Celtic Chief," stating upon what you base your opinion, including your own experience in salving vessels, in maritime matters and in navigation, as well as your knowledge of the facts.

[Endorsed]: No. 116. Direct Interrogatories to be Propounded to Fregatten Kapitaen Hermann Schroeder. Filed July 2, 1910. [740]

[Title of Court and Cause—Nos. 115, 116, 117.]

**Cross-interrogatories to be Propounded to Fregatten
Kapitaen Hermann Schroeder on Behalf of
Libellants Inter-Island Steam Navigation Com-
pany, Limited, and Matson Navigation Com-
pany. [749]**

1. If, in reply to direct interrogatory No. 6, you have stated that you know the tonnage and horse-power of the "Arcona," and have also stated such tonnage and horse-power, state the source of your information on these matters, and upon what you base your answer.
2. If, in reply to direct interrogatory No. 9, you have stated that the assistance of the "Arcona" was requested by the "Celtic Chief," state how you know such to have been the case; also whether such request was made to you in person or to some other person in your presence.
3. If made to some person other than yourself, state to whom it was made.
4. When, where, and by whom, was the request made?
5. What persons other than those you have mentioned were present?
6. If you have answered the first part of direct interrogatory No. 9 in the affirmative, and have also in answer thereto or to direct interrogatory No. 10 stated what was done by the "Arcona" in connection with the stranded "Celtic Chief," state how far your answer is based upon your own personal ob-

servation, and what facts are stated upon information received by you from others.

7. If, in reply to direct interrogatory No. 11 you have stated that you personally examined the position and condition of the "Celtic Chief," state when you made such examination, giving the date and hour. [750]
8. How did you proceed with such examination?
9. Of what did it consist?
10. Who were present?
11. What part or parts of your findings or conclusions, if any, were based upon the observation or examination by others and reported to or learned by you?
12. If, in reply to direct interrogatory No. 13, you have stated that advice was given by you or by some other officer of the "Arcona" to the "Celtic Chief," state where and when such advice was given, giving the date and hour.
13. Who were present at that time, and under what circumstances was the advice given?
14. If, in reply to direct interrogatory No. 14, you have stated that the "Celtic Chief" moved toward the land between December 7, 1909, and the early morning of December 8, 1909, state what observations were made to determine this, from what place, and by whom.
15. If such observations were made by anyone other than yourself, how did you learn of them?
16. What bearings did you have, giving their relative positions with respect to your position and the "Celtic Chief" and the approximate

distance between these several points?

[751]

17. What position was assumed by the "Arcona" in attempting to render assistance to the "Celtic Chief"?
18. If you have answered direct interrogatory No. 18 in the affirmative, and further answered direct interrogatories Nos. 19, 20, 21 and 22, or any of them, describe further: How far ahead of the "Arcona" each anchor was laid, and in what direction or position with respect to the "Arcona" were they after she assumed her final position?
19. Did she maintain such position and distance until the "Celtic Chief" was floated?
20. If, in reply to direct interrogatory No. 23, or to any preceding interrogatory, you have stated that the chains connected with the anchors of the "Arcona" were heaved in by the use of winches, state what horse-power was exerted by each of such winches.
21. If, in reply to direct interrogatory No. 25, you have described the lines connecting the "Arcona" with the "Celtic Chief," state when you first examined them.
22. Of what did your examination consist?
23. Had these lines been used before, and if so, how many times?
24. If you have furnished a sample, state from what part of the line the sample was cut. [752]
25. Are not all lines of this size and character identical in appearance?
26. Did you have other lines aboard of the same size

and general appearance?

27. Can you swear positively that the sample furnished is a part of the particular line used, after so many months have elapsed since you were in Honolulu?
28. If, in reply to direct interrogatories No. 24 and 25, or either of them, you have said that the "Arcona" was connected with the "Celtic Chief" by a line or lines, please describe further the distance of the stern of the "Arcona" from the "Celtic Chief."
29. In what precise position did the "Arcona" lie with respect to the "Celtic Chief"?
30. What was the length of each line between the points of their connection to, and where was each of the lines of the "Arcona" made fast to the "Celtic Chief," stating also whether such lines lay over or under or crossed the lines of other assisting vessels and the point and manner of crossing in each case.
31. If, in reply to direct interrogatory No. 26, you have stated a test of the strength of any line or lines connecting the "Arcona" with the "Celtic Chief" was made by straining thereon, and that as a result of such strain any such line or lines parted, state whether or not you know, of your [753] personal knowledge, how much power was being exerted when the line so parted, and what is the source of your knowledge.
32. Where were you when the "Celtic Chief" was floated, and for how long had you been there?

33. State whether the pulling done by the "Arcona" was continuous from the time she first began until the "Celtic Chief" was floated or whether there were cessations at times.
34. If the pulling was not continuous from first to last, state the date and hour when the final pull was begun, and whether the "Arcona" then pulled alone or in concert with other assisting vessels.
35. State whether such final pulling by the "Arcona" was begun in response to any signal given for the purpose, and if so, when and how and by whom such signal was given.
36. What was the arrangement, if any, as to giving signals to the vessels rendering assistance to the "Celtic Chief"?
37. Was more than one signal to be given; if so, how many and what were they?
38. How long an interval was there between the various signals?
39. From the time the "Arcona's" lines were first made fast to the "Celtic Chief" up to the time the "Celtic Chief" was floated, state the time or times you were on duty and the time or times you were off duty. [754]
40. From the time the "Arcona's" lines were first made fast to the "Celtic Chief" up to the time the "Celtic Chief" was floated, describe the relative positions of the "Arcona" and the "Celtic Chief," and in what direction each was headed just after the "Celtic Chief" was floated.
41. Referring to your answer to direct interroga-

tory No. 36a, state whether or not any part of the same relates to matters not done or observed by you in person, but is based upon reports made to you by your junior officers, or others, indicating what part or parts are stated upon such information.

42. Referring to your answer to direct interrogatory No. 37, state whether or not any part of the same relates to matters not done or observed by you in person, but is based upon reports made to you by your junior officers, or others, indicating what part or parts are stated upon such information.

43. Has your information regarding any of the matters concerning which you have testified been derived from or assisted by a reading of any official reports of the occurrence?

[Endorsed]: No. 116. Cross-interrogatories to be Propounded to Fregatten Kapitaen Hermann Schroeder on Behalf of I. I. S. N. Co., Ltd., & Matson Navigation Co. Filed Jul. 9, 1910. [755]

[Title of Court and Cause—Nos. 115, 116, 117.]

Cross-interrogatories to be Propounded to Fraegatten Capitaen Hermann Schroeder.

1. If in answer to the twelfth interrogatory, you made such examination, state what day and time of day you made the examination and who were present with you, stating the particulars of what you did in order to make the examination.
2. At the time you made your examination, did not

the Miller Salvage Co., under the direction of Captain Miller, have a steel cable extending out astern of the "Celtic Chief" to a mooring the shore end of which was spliced to a hawser extending aboard the "Celtic Chief" and rigged to purchase tackles on the deck of the "Celtic Chief"? [756]

3. Is it not a fact that the "Celtic Chief" was moving further on the reef up to the evening of December 8, 1909?
4. Is it not a fact that the officers of the "Arcona" had an agreement with the officers of the "Celtic Chief" that on the evening of Wednesday, December 8, 1909, signals were to be given from the "Celtic Chief" to the "Arcona" to indicate to the "Arcona" that the "Celtic Chief" was ready to have an effort made by the "Arcona" to pull her off the reef?
5. If you answer that signals were to be given, what were they and what was it agreed that each signal should indicate to the "Arcona"?
6. If you answer that signals were to be given to the "Arcona," was the "Arcona" pulling on the "Celtic Chief" before the first of such signals was given, and if so what strain was on her lines to the "Arcona" just before the first signal given stating the appearance of the lines with regard to being taut; and the position of such lines with regard to the surface of the sea?
7. If you answer that a signal was given from the

"Celtic Chief" to the "Arcona," state what effect, if any, that first signal had on the effort of the "Arcona" to pull the "Celtic Chief" off the reef, stating what difference there was in the effort made by the "Arcona" and any other particulars describing what was done on board the "Arcona" in relation thereto immediately after the first signal as compared with what had been done before the first signal?

8. Where were you at the time the "Celtic Chief" first started to move seaward off the reef?
9. If you answer that you were on board the "Celtic Chief" when the "Celtic Chief" first started to move seaward, please state, if you know, whether the "Celtic Chief" was being moved by the steel cable of the Miller Salvage Co. running astern before you came on board. [757]
10. If you say that you were aboard the "Celtic Chief" just prior to her moving off the reef and that signals were to be given from the "Celtic Chief" to the "Arcona," please state, if you know, whether or not the "Celtic Chief" was being moved seaward before the signals were given from the "Celtic Chief" to the "Arcona" to start pulling.
11. If you answer that the "Celtic Chief" was moving seaward before the signals were given, please state what you know of your own knowledge with regard to such fact.
12. Did you have, at that time, any ranges (shore

lights or otherwise) by which you could determine the fact that the ship was moving seaward?

13. Have you ever had any experience in floating a vessel other than this one? If so, what experience have you had?
14. At the time that the "Celtic Chief" was floated and half an hour immediately prior thereto, did the "Arcona" have any strain on the lines from the "Arcona" to the "Celtic Chief," and if so, describe such strain as best you can and how long such strain continued?
15. If you answer that you knew of such facts, please state what means of observation you had during such half hour and what you were doing during that time.
16. Was there not an agreement between the officers of the "Arcona" and the officers of the "Celtic Chief" that signals should be given by some kind of fireworks, and if so, what were these signals if you know, and at what time were they given?
17. If you answer that you know what these signals were; was not one signal arranged as a signal for the "Arcona" to begin pulling on the "Celtic Chief," and was not another signal arranged which would indicate to the "Arcona" that the "Celtic Chief" was moving seaward? [758]
18. Was not another signal arranged to indicate to the "Arcona" that the "Celtic Chief" was floating?

19. Was there not a time agreed upon by the officers of the "Arcona" and the "Celtic Chief" when the "Arcona" should be expected to be prepared to pull on the "Celtic Chief"?
20. If you answer in the affirmative, was not this time agreed upon the time of high tide on that night?
21. If so, what was the time in hours and minutes if you know?
22. Were these signals as agreed upon given and, if so, when they were given were they not given so close together that there was a very small interval of time between them?
23. If you answer that there was a very small interval of time between the signals, were not these signals given so close together as to give you the impression as being practically a continuous set of signals?
24. If the foregoing do not state the facts in regard to the signals arranged and the method of carrying out the orders, tell all you know with regard to the signals arranged and the method of carrying out the orders.
25. How long was it before the first and the last signal, if you know?

Honolulu, T. H., July, 1910.

[Endorsed]: No. 116. Cross-interrogatories to be Propounded to Fraegatten Capitaen Hermann Schroeder by the Miller Salvage Co., Libellant. Filed July 9th, 1910. [759]

**Deposition of Fraegatten Capitaen Hermann
Schroeder. [760]**

AMERICAN CONSULATE.

Tsingtau, Kiaochow, China,

September 26th, 1910.

CAPTAIN HERMANN SCHROEDER, after being duly sworn, makes the following deposition:
In answer to direct interrogatory Number 1 he saith:

Hermann Schroeder; Naval Officer; Commandant of the Imperial German Cruiser "Leipzig."

In answer to direct interrogatory Number 2 he saith:

Twenty-three and a half years.

In answer to direct interrogatory Number 3 he saith:

General training of a naval officer, like in the greater navies, twenty-three and a half years.

In answer to direct interrogatory Number 4 he saith:

Yes.

In answer to direct interrogatory Number 5 he saith:

I was captain of the "Arcona."

In answer to direct interrogatory Number 6 he saith:

The tonnage of the "Arcona" is 3,100 tons, 8,000 horse-powers.

In answer to direct interrogatory Number 7 he saith:

Two donkey-engines for weighing anchors, one

(Deposition of Captain Hermann Schroeder.)

capstan for hand use, several tackles, three anchors of 2,250 kilo weight each, three steel hawsers 225 meters long each; one with a circumference of 10 centimeters, one with a circumference of 7 centimeters and one with 6 centimeters circumference. Besides, these, 4 steel hawsers of 75 meters length and 10 centimeters circumference, being used to tie the ship to a wharf. Three or four manila hemp lines were also on board.

In answer to direct interrogatory Number 8 he saith:

Yes.

In answer to direct interrogatory Number 9 he saith:

Yes, she attempted to pull her off a coral reef near Honolulu. I assisted her upon the request of the British Consul. [761]

In answer to direct interrogatory Number 10 he saith:

The "Arcona" left Honolulu on the eight of December, 1909, about 11 o'clock in the morning and anchored near the "Celtic Chief." I ordered, to the best of my knowledge, some thin lines of hemp and steel to be brought on board of the "Celtic Chief," in order to haul over a big steel hawser of that ship on board the "Arcona," and to fasten it on board of the "Celtic Chief" with one end, and the other end on board of the "Arcona." For this purpose, as much as I know, I once changed my berth. After fastening the hawser I ordered the anchor chain of the "Arcona" to be heaved short, I do not remember to what length, but until the hawser was taut. Then

(Deposition of Captain Hermann Schroeder.)

I ordered the ship's engines to go ahead as slow as possible, and to increase the revolutions gradually. When the engines made revolutions for a speed of eight knots an hour, the hawser snapped. After this I ordered the 10 centimeter hawser of the "Arcona" to be fastened on both ships, having been lengthened by one steel hawser of 75 meters length, and I also ordered the first hawser of the "Celtic Chief" to be repaired and used again, having also been lengthened by a piece of hawser 75 meters long, from the "Arcona." Then I ordered both hawsers to be made taut, by heaving in the chain. This work was done about 6 o'clock in the afternoon. Then I ordered the hawsers to be kept taut all the time by heaving in the chain as soon as the hawsers would slacken; by that means the "Celtic Chief" was floated through the rising tide about 11:30 P. M. By this time I had hauled in about 25 meters of the chain from the time when the hawsers had been hauled taut. Then I raised anchor and towed the "Celtic Chief" near the entrance of Honolulu harbor. Immediately after being floated the "Celtic Chief" was pulled a little distance by three tugs [762] into deeper water until the "Arcona" had lifted her anchor. When I pulled the "Celtic Chief" to the entrance of the harbor, it was very difficult to tow the "Celtic Chief" as the stern of the vessel was directed towards the stern of the "Arcona," not being in a position to use her rudder. About at 1:30 A. M., one of the tugs took over the ship, and I ordered my hawsers to be pulled on board of the "Arcona."

In answer to direct interrogatory Number 11 he saith:

(Deposition of Captain Hermann Schroeder.)

Yes, I examined the "Celtic Chief" twice before I left Honolulu with the "Arconia." I came in company with some of my officers. The first examination was made in the morning of the seventh of December; the second one of the morning of the eighth of December. The ship was tight, lying, as much as I know, on a coral ground with the entire length of her keel, more firmly with her aft part than with her fore part. The fore part swung from side to side by the incoming swell, and the noise of the iron bottom scraping over the corals could be heard in the aft part. The ship was pounding upon the reef rather hard when it was moving through the swell. Aft, amidships and in the forepart were 19, 18 and 16 feet of water respectively, alongside of the ship. The captain of the "Celtic Chief" told me that the draught of the ship before running aground was 20 feet in the fore part and 24 feet aft, and that he had taken out 240 tons of cargo, since the ship stranded, and was still unloading more. At the second examination conditions and circumstances were about the same as at the first examination. The ship had been made lighter and work was still going on to take out more cargo.

In answer to direct interrogatory Number 12 he saith:

At the time of the first examination two small steamers were occupied [763] in pulling the "Celtic Chief" off the reef. They were anchored in deeper water, moving their engines, but scarcely tightening the hawsers. At the second examination I do not remember positively whether a third steamer

(Deposition of Captain Hermann Schroeder.) was connected with the "Celtic Chief," or was going to be connected. The ship's crew was engaged in connecting the ship with a weight or anchor lying behind the stern of the ship.

In answer to direct interrogatory Number 13 he saith:

I gave the advice to lighten the ship and put out an anchor astern for the purpose of keeping the "Celtic Chief" in her position; this was given at the first examination. I am not certain whether I gave it to the captain of the ship or the ship's agent, and whether I had it interpreted by my first lieutenant, as there were a number of men around us.

In answer to direct interrogatory Number 14 he saith:

Yes, the position had changed; the ship had come a little distance more on ground.

In answer to direct interrogatory Number 15 he saith:

The "Arcona" anchored near the "Celtic Chief" on the eighth of December at 12 o'clock.

In answer to direct interrogatory Number 16 he saith:

The "Arcona" anchored and by means of her steam launches and other boats and hemp and steel lines the big steel hawser of the "Celtic Chief" was brought on board of the "Arcona."

In answer to direct interrogatory Number 17 he saith:

She was laying before her port anchor and by means of the hawsers and engines had her poop di-

(Deposition of Captain Hermann Schroeder.)
rected towards the shore and the aft part of the "Celtic Chief."

In answer to direct interrogatory Number 18 he saith:

The "Arcona" only put out one anchor.

In answer to direct interrogatory Number 19 he saith:

About when I do not remember, whether this anchor was laid out at 12 o'clock or when I had to change my position.

In answer to direct interrogatory Number 20 he saith: [764]

It was used to hold the "Arcona" in a favorable position to enable her to pull the "Celtic Chief" off the reef.

In answer to direct interrogatory Number 21 he saith:

It was a "Hall" anchor, weighing 2,250 kilo. The size I do not know.

In answer to direct interrogatory Number 22 he saith:

The anchor was connected by a chain.

In answer to direct interrogatory Number 23 he saith:

The chain was heaved by an engine.

In answer to direct interrogatory Number 24 he saith:

At the first time with a hawser of 10 centimeters circumference, and at the second time by two hawsers 10 centimeters circumference.

In answer to direct interrogatory Number 25 he saith:

(Deposition of Captain Hermann Schroeder.)

The lines were all strong steel hawsers of the size already mentioned in No. 24, in a good condition. I cannot furnish a sample of them.

In answer to direct interrogatory Number 26 he saith:

There was one test made during the first attempt in pulling the "Celtic Chief" off. The test was made by heaving in the anchor chain until the line was taut and then moving the ship's engines with increasing speed. The result was the line snapped at revolutions for eight knots speed.

In answer to direct interrogatory Number 27 he saith:

The first time they were made fast from 12 to 2 o'clock in the afternoon. The second time from about 3 o'clock until 6 o'clock in the afternoon.

In answer to direct interrogatory Number 28 he saith:

The lines were kept fast from 6 o'clock in the afternoon until the "Celtic Chief" was floated.

In answer to direct interrogatory Number 29 he saith:

Yes, by means of two steel hawsers. [765]

In answer to direct interrogatory Number 30 he saith:

Yes. The strain exerted upon the hawsers was given by the capstan engines heaving in the anchor chain of the "Arcona." I don't know how much engine power was exerted upon the lines. I know only that the hawsers were kept taut the whole time by that heaving in.

(Deposition of Captain Hermann Schroeder.)

In answer to direct interrogatory Number 31 he saith:

They were kept taut.

In answer to direct interrogatory Number 32 he saith:

The anchor held fast.

In answer to direct interrogatory Number 33 he saith:

There were three little steamers.

In answer to direct interrogatory Number 34 he saith:

At first when I arrived with the "Arcona" I saw the steamers going full speed ahead. Then they decreased their speed until the "Arcona" herself moved her engines. At that time they went full speed. During the latter part of the afternoon I do not remember what efforts the steamers made. During the night I do not know what they did.

In answer to direct interrogatory Number 35 he saith:

Sometimes they were kept taut and sometimes not, during the night I only saw them at intervals.

In answer to direct interrogatory Number 36 he saith:

I did not see anything else.

In answer to direct interrogatory Number 36a he saith:

During the three hours immediately preceding the floating of the "Celtic Chief" the steel hawsers which connected the "Arcona" with the "Celtic Chief" were taut by means of heaving in the ship's anchor. When the "Celtic Chief" was floated the "Arcona's"

(Deposition of Captain Hermann Schroeder.)

anchor was weighed and the engines moved full speed ahead in order to avoid the "Celtic Chief" which came down from the ground with rather much speed.

[766]

In answer to direct interrogatory Number 37 he saith:

Without any further questions I do not remember whether there has anything else been done by the "Arcona."

In answer to direct interrogatory Number 38 he saith:

The cause of the floating of the "Celtic Chief," in my opinion was the fact that the "Celtic Chief" was kept in her position by the steel hawsers of the "Arcona" while she was lightened and raised by the tide, and that when she was loosely on the ground she was pulled forward by both the heaving in of the chain of the "Arcona," and the heaving in of the anchor laid out by the "Celtic Chief." Naturally, in the last stage of the floating of the "Celtic Chief" also the engine power of the steamers came to be of effect; for they were well able to tug the floating ship, but were not able to pull the ship while on the ground. That the tugs were not able to do anything I judge from the fact that the "Celtic Chief" had come more on ground while they were there during the preceding days, when they had been to her assistance. [767]

Cross-examination.

In answer to cross-interrogatory Number 1 he saith:

From the official record-books of the German Navy.

In answer to cross-interrogatory Number 2 he saith:

I don't remember quite well whether the first ex-

(Deposition of Captain Hermann Schroeder.)
amination was requested by the British Consul or the shipping agent. But the second examination was requested personally by the British Consul to me, on the same day.

In answer to cross-interrogatory Number 3 he saith:
It was made to me personally.

In answer to cross-interrogatory Number 4 he saith:
On the seventh of December on board of the "Arconia" by the British Consul.

In answer to cross-interrogatory Number 5 he saith:
I think I was alone with the British Consul, but it may be that the First Lieutenant of the "Arconia" was present.

In answer to cross-interrogatory Number 6 he saith:
My answers are based upon my own personal observations.

In answer to cross-interrogatory Number 7 he saith:
The first examination I made on the seventh of December at about 9 o'clock in the morning; and the second examination at about 9 o'clock on the eighth of December, 1909.

In answer to cross-interrogatory Number 8 he saith:
On the first examination I ordered the depth to be sounded around the "Celtic Chief," besides that I took the bearings of the ship and controlled the movements of the ship in order to find out with what parts of her bottom she was on the reef, better on the ground. Besides that I asked the Captain of the ship what draught the ship had, how much cargo and what kind, and what had been done by the captain since the ship run aground.

In answer to cross-interrogatory Number 9 he saith:

(Deposition of Captain Hermann Schroeder.)

The ship was on ground for the whole length of her bottom, but [768] only in the aft part so firmly that it could not be raised by the swell. While the fore part was moved a little to both sides by the higher swell. The depths were aft, amidships and the fore-part 19, 18 and 16 feet, respectively. The draught of the ship according to the captain's statement was 24 feet aft, and 20 feet in the fore part. At that time I doubted the accuracy of the captain's statement because the ship had to stick one meter in the hard bottom, which was not probable. The second examination was a more superficial one, I do not remember if soundings were taken. But the circumstances were about the same as before on the preceding day.

In answer to cross-interrogatory Number 10 he saith:

The first lieutenant, Mr. Connemann, then the navigating officer, Capt. Lieutenant Albrecht, and an agent of the ship's company, but I don't know whether he was from the ship's owner or cargo owner's.

In answer to cross-interrogatory Number 11 he saith:

Soundings were taken by the navigating officer. The dates of the ship's draught and the cargo were given to me by the captain. Everything else is based upon my own personal observations and conclusions. In answer to cross-interrogatory Number 12 he saith:

They were given in the morning of the seventh of December about ten o'clock.

(Deposition of Captain Hermann Schroeder.)

In answer to cross-interrogatory Number 13 he saith:

Present were the company's agent, the captain, my first lieutenant, the pilot and perhaps my navigating officer, but I do not know if all these persons have heard my advices.

In answer to cross-interrogatory Number 14 he saith:

The observation was made by me and the first lieutenant and perhaps the navigating officer from board of the "Arcona," and consisted in bearing the ship "Celtic Chief" in the elongation of a supposed line given by two fixed points. The "Arcona" was tied to a pier. [769]

In answer to cross-interrogatory Number 15 he saith:

I made them myself.

In answer to cross-interrogatory Number 16 he saith:

I do not remember.

In answer to cross-interrogatory Number 17 he saith:

She anchored outside of the "Celtic Chief" in deep water with one anchor and hauled the aft part of the ship as near as possible to the aft part of the "Celtic Chief."

In answer to cross-interrogatory Number 18 he saith:

As much as I remember the "Arcona" had laid out her anchor about 100 meters, and the chain showed two points to the left of the bow of the "Arcona."

In answer to cross-interrogatory Number 19 he saith:

(Deposition of Captain Hermann Schroeder.)

No, the direction of the ship was almost the same, but the distance decreased by heaving in the chain.

In answer to cross-interrogatory Number 20 he saith:

I don't remember.

In answer to cross-interrogatory Number 21 he saith:

It is not my duty to examine the hawser at all, until I see them brought out. I make no special examination.

In answer to cross-interrogatory Number 22 he saith:

By looking at them.

In answer to cross-interrogatory Number 23 he saith:

They had been used before, but I do not know how often. They were in good condition.

In answer to cross-interrogatory Number 24 he saith:

No sample given.

In answer to cross-interrogatory Number 25 he saith:

We have aboard the German war vessels hawsers galvanized with zink, so they do not get rusty. They have all the same appearance. The hawser of the "Celtic Chief" was of the same character.

In answer to cross-interrogatory Number 26 he saith:

No, there were only three steel hawsers on board.

[770]

In answer to cross-interrogatory Number 27 he saith:

(Deposition of Captain Hermann Schroeder.)

No, no sample was furnished.

In answer to cross-interrogatory Number 28 he saith:

I remember that the distance was about 200 meters.

In answer to cross-interrogatory Number 29 he saith:

She laid about in the line given by the masts of the "Celtic Chief."

In answer to cross-interrogatory Number 30 he saith:

The hawsers were about 200 meters long between the points where they were made fast; I do not remember where they were made fast, on board the "Celtic Chief," nor do I know how they were conducted with respect to the lines of the other ships.

In answer to cross-interrogatory Number 31 he saith:

I saw that the hawser snapped while the engines of the "Arconia" made revolutions for about 8 miles speed. That the engines made so many revolutions I saw on the indicator. Revolutions for 8 miles require about 800 horse-powers.

In answer to cross-interrogatory Number 32 he saith:

I was then at a place 25 meters further seaward from that place where the hawsers had been hauled taut at about 6 o'clock. I do not know how long time.

In answer to cross-interrogatory Number 33 he saith:

The pulling off could not be executed from the beginning until the floating of the "Celtic Chief," because the hawser snapped and had to be replaced.

(Deposition of Captain Hermann Schroeder.)

In answer to cross-interrogatory Number 34 he saith:

The last pulling began in the night of the eighth of December after the two lines had been fastened to the "Celtic Chief"; besides, the "Arcona" there were three steamers present.

In answer to cross-interrogatory Number 35 he saith:

I do not remember if a signal was given because the engines of the "Arcona" were not moved before the ship came off, but I remember that the steamers moved their engines with full [771] speed from about eleven o'clock.

In answer to cross-interrogatory Number 36 he saith:

I do not remember any more.

In answer to cross-interrogatory Number 37 he saith:

I don't remember any more. The signals were arranged by the first lieutenant.

In answer to cross-interrogatory Number 38 he saith:

I do not know.

In answer to cross-interrogatory Number 39 he saith:

I was off duty only during the pauses where there was nothing to be done.

In answer to cross-interrogatory Number 40 he saith:

The position of the "Arcona" I have described in answer to question No. 29, and the position was almost quite the same from the first moment to the last. The direction of each hawser after the floating I cannot describe.

(Deposition of Captain Hermann Schroeder.)

In answer to cross-interrogatory Number 41 he saith:

Most parts of my statements are based on my own observations, but of course I have not stood near the hawser for three hours, especially not at about 11 o'clock, when I went on board the "Celtic Chief." The observations that were not made by me were reported to me by my first lieutenant who made them personally.

In answer to cross-interrogatory Number 42 he saith:

Based on my own observations.

In answer to cross-interrogatory Number 43 he saith:

No, as I made all my official report myself. [772]

Second Cross-examination (X).

In answer to cross-interrogatory Number 1x he saith:

I made the first examination on the seventh of December at about 9 o'clock in the morning; the second one on the eighth of December at the same time of day.

At both examinations the first lieutenant and the navigating officer of the "Arcona," Captain Lieutenants Conneman and Albrecht were present. For the first examination I ordered the navigating officer to sound the depth of the water around the ship and to determine her position by bearings. I asked the captain of the "Celtic Chief" for details of the stranding, the draught of the ship, her cargo, and what had been done since the ship stranded.

In answer to cross-interrogatory Number 2x he saith:

I don't remember to have seen any steel cable extending out of the stern of the "Celtic Chief" during my first examination if not those by which the steamers had been fastened to the "Celtic Chief."

(Deposition of Captain Hermann Schroeder.)

Only when I came out with the "Arcona" I saw a big steel cable extending out of the stern of the ship and leading into the water where it was said to have been fastened to a seven ton stone or anchor.

In answer to cross-interrogatory Number 3x he saith:

Yes, but not to the evening of the eighth, but to the morning of the eighth of December.

In answer to cross-interrogatory Number 4x he saith:

There have arrangements and agreements been made by my First Lieutenant Connemann, but I don't remember the details of them.

In answer to cross-interrogatory Number 5x he saith:

I don't remember.

In answer to cross-interrogatory Number 6x he saith:

I don't remember the details of the signals.

In answer to cross-interrogatory Number 7x he saith:

I don't remember the details of the signals and the efforts [773] which the "Arcona" made immediately after the signals were given.

In answer to cross-interrogatory Number 8x he saith:

I was on board of the "Celtic Chief."

In answer to cross-interrogatory Number 9x he saith:

I don't know if that cable has moved the "Celtic Chief" before I came on board in that night. I cannot even say that it has moved the "Celtic Chief" at all, several strains being in action to pull off that ship, i. e., the hawsers of the "Arcona," the cables of the steamers and that steel cable leading to the seven ton weight.

In answer to cross-interrogatory Number 10x he saith:

I don't remember the meaning of all signals ar-

(Deposition of Captain Hermann Schroeder.) ranged by the first lieutenant but it is an error to think that the "Arcona" did not start pulling before the signals were given. The "Arcona" was pulling all the time. It is only right that the "Celtic Chief" was moving seaward before signals were given.

In answer to cross-interrogatory Number 11x he saith:

I was on board the "Celtic Chief" when she began to move seaward, and stated the fact of moving by which were shown to me and the first lieutenant by the pilot, as much as I remember.

In answer to cross-interrogatory Number 12x he saith:

Yes, there were some shore lights by which the moving of the "Celtic Chief" could be determined.

In answer to cross-interrogatory Number 13x he saith:

I have had some experience in floating vessels, the details of which I don't remember any more.

In answer to cross-interrogatory Number 14x he saith:

Yes, the "Arcona" had the strain of her capstan engine continuously on her hawsers to the "Celtic Chief," by means of that engine the anchor was heaved in, as soon as the hawsers slackened.

In answer to cross-interrogatory Number 15x he saith:

My eyes served as means of observation. At about eleven [774] o'clock in the evening I controlled once again personally the state and condition of the hawsers on board the "Arcona." Saw them to be quite taut and ordered them to be kept so further

(Deposition of Captain Hermann Schroeder.)

on. Then in company of the first lieutenant I went on board the "Celtic Chief" and observed the hawsers from there. Observation could well be made in the light of the "Arconia's" search-light. At last we controlled the condition and strain of the cable running to the seven ton anchor and looked out for the shore lights in order to determine the moving of the "Celtic Chief." When we had stated that the "Celtic Chief" was moving seaward I returned on board the "Arconia" as quick as possible, and ordered her anchor to be weighed. Meanwhile I got the signal from the "Celtic Chief" that she was floating.

In answer to cross-interrogatory Number 16x he saith:

Yes, there was an agreement between the first lieutenant and as much as I know, the officers of the "Celtic Chief," but I don't remember what signals they were. I remember only that one signal of the floating of the "Celtic Chief," this was given about at 11:30 P. M.

In answer to cross-interrogatory Number 17x he saith:

I do not remember how many signals were agreed upon, nor what they meant, except the last one.

In answer to cross-interrogatory Number 18x he saith:

Yes, that signal was arranged.

In answer to cross-interrogatory Number 19x he saith:

I don't remember this agreement.

In answer to cross-interrogatory Number 20x he saith:

(Deposition of Captain Hermann Schroeder.)

I do not remember.

In answer to cross-interrogatory Number 21x he saith:

I don't know any more. [775]

In answer to cross-interrogatory Number 22x he saith:

I don't remember.

In answer to cross-interrogatory Number 23x he saith:

I don't remember.

In answer to cross-interrogatory Number 24x he saith:

I have told everything I know in regard to the signals and the manner of carrying out the order. I don't remember anything more.

In answer to cross-interrogatory Number 25x he saith:

I don't remember.

[*Signed in German characters.*] [776]

United States of America,

Territory of Hawaii,—ss.

I, James C. McNally, Commissioner of the District Court of the United States for the Territory of Hawaii, named in the *dedimus potestatem* hereto annexed, do hereby certify that on the twenty-sixth day of September, 1910, at Tsingtau, Kiaochow, China, I was attended by the witness Hermann Schroeder, the person named in said *dedimus potestatem*, and the said witness, having been by me first sworn to testify the truth, the whole truth and nothing but the truth in the within entitled cause, gave his testimony in response to the interrogatories annexed to said *dedi-*

mus potestatem, the same having been by me propounded to said witness in the manner in said *deditus potestatem* directed, which was reduced to writing under my supervision in the English language, the said witness having replied to said interrogatories in the English language, and the said testimony so given and reduced to writing was thereafter signed by said witness.

I do further certify that the said testimony was taken in all respects in accordance with the said *deditus potestatem*.

I do further certify that I am not of counsel nor attorney for any of the parties in the said *deditus potestatem* named, nor in any way interested in the event of the cause named therein.

IN TESTIMONY WHEREOF I have hereunto set my hand and seal this twenty-ninth day of September, 1910.

[Seal] (Sgd.) JAMES C. McNALLY,
Consul of the United States of America.

[Endorsed]: No. 116. Deposition of Hermann Schroeder. Filed Dec. 28, 1911. [777]

[Title of Court and Cause—Nos. 115, 116, 117.]

**Direct Interrogatories to be Propounded to Kapitaen
Leutnant Felix Maria Connemann.** [788]

1. State your name, occupation and present position in your profession.
2. How long have you been in the German navy?
3. State fully what training you have had in navigation and maritime matters.

4. Are you acquainted with the German cruiser "Arcona"?
5. What was your position on the said "Arcona" while she was in the port of Honolulu in the month of December, 1909?
6. Do you know the tonnage and horse-power of the said "Arcona"? If so, state the same.
7. What donkey-engines, winches, tackles, anchors and hawsers did the "Arcona" have while so in the port of Honolulu? If any, describe the same fully as far as you can of your own knowledge.
8. Are you acquainted with the British ship named the "Celtic Chief" that was stranded in the harbor of Honolulu, in the Territory of Hawaii, from the 6th day of December, 1909, to the 9th day of December, 1909?
9. State whether or not the said "Arcona" had anything to do with the said "Celtic Chief" while so stranded. If so, what led up to the same? [789]
10. If you answer the first part of the last interrogatory in the affirmative, state what was done by the said "Arcona."
11. State whether or not you, or any other officer of the said "Arcona," if you know, examined the said "Celtic Chief," her position and condition while so stranded, and if so, when such examination was made. If you made such examination, state what you found.
12. What assistance, if any, was being rendered to your knowledge to said "Celtic Chief" at

the time of such examination?

13. What advice, if any, for the relief of the said "Celtic Chief" was given by you or in your hearing by any other officer of the said "Arconia" to the said "Celtic Chief" or those or anyone in charge of her and to whom was the same given?
14. State whether or not the said "Celtic Chief" changed her position from the 7th of December, 1909, to the early morning of the 8th of December, 1909, and if so, what such change consisted of.
15. When, if at all, did the said "Arconia" go to the assistance of the said "Celtic Chief"?
16. What did the said "Arconia" do upon her arrival at the scene of stranding of the said "Celtic Chief"?
17. Describe the position taken by the said "Arconia." [790]
18. State whether or not the said "Arconia" laid out any anchors in connection with her operations for the relief of the said "Celtic Chief."
19. When were such anchors or anchor laid?
20. What use was made of such anchors or anchor?
21. Do you know the kind, size and weight of such anchors or anchor? If so, state the same fully.
22. How, if at all, were such anchors or anchor connected with said "Arconia"?
23. If you shall have testified that chains or a chain connecting such anchors or anchor with said "Arconia" were heaved in, state what means

were used for the purpose of heaving in such chains or chain.

24. How, if at all, was said "Arcona" connected with or made fast to said "Celtic Chief"?
25. If you shall have testified that the said "Arcona" was connected with said "Celtic Chief" by a line or lines, describe fully, if you know, the line or lines so used by the said "Arcona," stating in particular the size, condition and character thereof. Furnish, if you can, a sample piece of the line or each of the lines so used by the said "Arcona." [791]
26. State, if you can of your own knowledge, whether or not any test of the strength of any line so used by the said "Arcona" was made during her operations in connection with said "Celtic Chief." If so, what was the test, and what was the result thereof?
27. If you shall have testified that a line or lines were made fast from the said "Arcona" to the said "Celtic Chief," when were they made fast, giving as nearly as possible the precise times of day.
28. During what period or periods of time were such lines or line kept fast from said "Arcona" to said "Celtic Chief"?
29. State whether or not the said "Arcona" was made fast to the said "Celtic Chief" at the time of the floating of the said "Celtic Chief." If so, how?
30. Do you know whether or not any power or strain was exerted upon said lines during

the time that each was kept fast from said "Arcona" to said "Celtic Chief"? If so, do you know how much? If so, state how much and what variations, if any, there were from time to time.

31. State whether or not during the period or periods that said "Arcona" was kept fast to the said "Celtic Chief" the said line or lines were kept taut or otherwise. [792]
32. If you shall have testified that an anchor or anchors were laid by and connected with said "Arcona," state whether or not such anchor or anchors after being laid held fast during the said "Arcona's" operations in attempting to render assistance to said "Celtic Chief."
33. State what agencies besides the said "Arcona" were attempting to render assistance to said "Celtic Chief" from the time that said "Arcona" arrived at the scene of stranding of said "Celtic Chief" until the floating of said "Celtic Chief."
34. Relate fully what, as far as you observed, said agencies did during said last mentioned period of time in attempting to render assistance to said "Celtic Chief."
35. State, if you know of your own knowledge, whether or not during said last mentioned period of time, the lines by which the said last mentioned agencies were kept fast to said "Celtic Chief" were kept taut or otherwise.
36. State what said agencies other than said "Ar-

conna" did, as far as you observed, in attempting to render assistance to said "Celtic Chief."

- 36a. Relate fully and in detail everything that was done to your knowledge by the said "Arcona" in connection with her attempt to render assistance to said "Celtic Chief" at the time of floating of the said "Celtic Chief" and during the three hours immediately preceding said floating. [793]
37. Relate fully and in detail everything that was done, to your own knowledge, by the said "Arcona" in connection with her attempt to render assistance to said "Celtic Chief" that has not already been testified to by you in answer to the foregoing interrogatories.
38. What, in your opinion, was the cause of the floating of the "Celtic Chief," stating upon what you base your opinion, including your own experience in salving vessels, in maritime matters and in navigation, as well as your knowledge of the facts?

[Endorsed]: No. 116. Direct Interrogatories to be Propounded to Kapitaen Leutnant Felix Conne-mann. Filed July 2, 1910. [794]

[Title of Court and Cause—Nos. 115, 116, 117.]

Cross-interrogatories to be Propounded to Kapitaen Leutnant Felix Maria Connemann on Behalf of Libellants Inter-Island Steam Navigation Company, Limited, and Matson Navigation Company. [799]

1. If in reply to direct interrogatory No. 6, you have stated that you know the tonnage and horse-power of the "Arcona," and have also stated such tonnage and horse-power, state the source of your information on these matters, and upon what you base your answer.
2. If in reply to direct interrogatory No. 9, you have stated that the assistance of the "Arcona" was requested by the "Celtic Chief," state how you know such to have been the case; also whether such request was made to you in person or to some other person in your presence.
3. If made to some person other than yourself, state to whom it was made.
4. When, where, and by whom was the request made?
5. What persons other than those you have mentioned were present?
6. If you have answered the first part of direct interrogatory No. 9 in the affirmative, and have also in answer thereto or to direct interrogatory No. 10, stated what was done by the "Arcona" in connection with the stranded "Celtic Chief," state how far your

answer is based upon your own personal observation, and what facts are stated upon information received by you from others.

7. If in reply to direct interrogatory No. 11 you have stated that you personally examined the position and condition of the "Celtic Chief," state when you made such examination, giving the date and hour. [800]
8. How did you proceed with such examination?
9. Of what did it consist?
10. Who were present?
11. What part or parts of your findings or conclusions, if any, were based upon the observation or examination by others and reported to or learned by you?
12. If in reply to direct interrogatory No. 13 you have stated that advice was given by you or by some other officer of the "Arcona" to the "Celtic Chief," state where and when such advice was given, giving the date and hour.
13. Who were present at that time, and under what circumstances was the advice given?
14. If in reply to direct interrogatory No. 14 you have stated that the "Celtic Chief" moved toward the land between December 7, 1909, and the early morning of December 8, 1909, state what observations were made to determine this, from what place, and by whom.
15. If such observations were made by anyone other than yourself, how did you learn of them?
16. What bearings did you have, giving their relative positions with respect to your position

and the "Celtic Chief" and the approximate distance between these several points? [801]

17. What position was assumed by the "Arcona" in attempting to render assistance to the "Celtic Chief"?
18. If you have answered direct interrogatory No. 18 in the affirmative, and further answered direct interrogatories Nos. 19, 20, 21 and 22, or any of them, describe further: How far ahead of the "Arcona" each anchor was laid, and in what direction or position with respect to the "Arcona" were they after she assumed her final position?
19. Did she maintain such position and distance until the "Celtic Chief" was floated?
20. If in reply to direct interrogatory No. 23, or to any preceding interrogatory, you have stated that the chains connected with the anchors of the "Arcona" were heaved in by the use of winches, state what horse-power was exerted by each of such winches.
21. If in reply to direct interrogatory No. 25 you have described the lines connecting the "Arcona" with the "Celtic Chief," state when you first examined them.
22. Of what did your examination consist?
23. Had these lines been used before, and if so, how many times?
24. If you have furnished a sample, state from what part of the line the sample was cut. [802].
25. Are not all lines of this size and character identical in appearance?

26. Did you have other lines aboard of the same size and general appearance?
27. Can you swear positively that the sample furnished is a part of the particular line used, after so many months have elapsed since you were in Honolulu?
28. If in reply to direct interrogatories Nos. 24 and 25, or either of them, you have said that the "Arconia" was connected with the "Celtic Chief" by a line or lines, please describe further the distance of the stern of the "Arconia" from the "Celtic Chief."
29. In what precise position did the "Arconia" lie with respect to the "Celtic Chief"?
30. What was the length of each line between the points of their connection to, and where was each of the lines of the "Arconia" made fast to the "Celtic Chief," stating also whether such lines lay over or under or crossed the lines of other assisting vessels and the point and manner of crossing in each case.
31. If in reply to direct interrogatory No. 26 you have stated that a test of the strength of any line or lines connecting the "Arconia" with the "Celtic Chief" was made by straining thereon, and that as a result of such strain any such lines or lines parted, state whether or not you know, of your [803] personal knowledge, how much power was being exerted when the line so parted, and what is the source of your knowledge.
32. Where were you when the "Celtic Chief" was

floated, and for how long had you been there?

33. State whether the pulling done by the "Arconia" was continuous from the time she first began until the "Celtic Chief" was floated or whether there were cessations at times.
34. If the pulling was not continuous from first to last, state the date and hour when the final pull was begun, and whether the "Arconia" then pulled alone or in concert with other assisting vessels.
35. State whether such final pulling by the "Arconia" was begun in response to any signal given for the purpose, and if so, when and how and by whom such signal was given.
36. What was the arrangement, if any, as to giving signals to the vessels rendering assistance to the "Celtic Chief"?
37. Was more than one signal to be given; if so, how many and what were they?
38. How long an interval was there between the various signals?
39. From the time the "Arconia's" lines were first made fast to the "Celtic Chief" up to the time the "Celtic Chief" was floated, state the time or times you were on duty and the time or times you were off duty. [804]
40. From the time the "Arconia's" lines were first made fast to the "Celtic Chief" up to the time the "Celtic Chief" was floated, describe the relative positions of the "Arconia" and the "Celtic Chief," and in what

direction each was headed just after the "Celtic Chief" was floated.

41. Referring to your answer to direct interrogatory No. 36a, state whether or not any part of the same relates to matters not done or observed by you in person, but is based upon reports made to you by your junior officers, or others, indicating what part or parts are stated upon such information.
42. Referring to your answer to direct interrogatory No. 37, state whether or not any part of the same relates to matters not done or observed by you in person, but is based upon reports made to you by your junior officers, or others, indicating what part or parts are stated upon such information.
43. Has your information regarding any of the matters concerning which you have testified been derived from or assisted by a reading of any official reports of the occurrence?

[Endorsed]: No. 116. Cross-interrogatories to be Propounded to Kapitaen Leutnant Felix Maria Connemann on Behalf of I. I. S. N. Co., Ltd., & Matson Navigation Co. Filed Jul. 9, 1910. [805]

[Title of Court and Cause—Nos. 115, 116, 117.]

**Cross-interrogatories to be Propounded to Kapitaen
Leutnant Felix Maria Connemann.**

1. If, in answer to the twelfth interrogatory, you made such examination, state what day and time of day you made the examination and who were present with you, stating the par-

) ticulars of what you did in order to make the examination.

2. At the time you made your examination, did not the Miller Salvage Co., under the direction of Captain Miller, have a steel cable extending out astern of the "Celtic Chief" to a mooring the shore end of which was spliced to a hawser extending aboard the "Celtic Chief" and rigged to purchase tackles on the deck of the "Celtic Chief"? [806]
3. Is it not a fact that the "Celtic Chief" was moving further on the reef up to the evening of December 8, 1909?
4. Is it not a fact that the officers of the "Arcona" had an agreement with the officers of the "Celtic Chief" that on the evening of Wednesday, December 8, 1909, signals were to be given from the "Celtic Chief" to the "Arcona" to indicate to the "Arcona" that the "Celtic Chief" was ready to have an effort made by the "Arcona" to pull her off the reef?
5. If you answer that signals were to be given, what were they and what was it agreed that each signal should indicate to the "Arcona"?
6. If you answer that signals were to be given to the "Arcona," was the "Arcona" pulling on the "Celtic Chief" before the first of such signals was given, and if so, what strain was on her lines to the "Arcona" just before the first signal given stating the appearance of the lines with regard to being

taut, and the position of such lines with regard to the surface of the sea?

7. If you answer that a signal was given from the "Celtic Chief" to the "Arcona," state what effect, if any, that first signal had on the effort of the "Arcona" to pull the "Celtic Chief" off the reef, stating what difference there was in the effort made by the "Arcona" and any other particulars describing what was done on board the "Arcona" in relation thereto immediately after the first signal as compared with what had been done before the first signal?
8. Where were you at the time the "Celtic Chief" first started to move seaward off the reef?
9. If you answer that you were on board the "Celtic Chief" when the "Celtic Chief" first started to move seaward, please state, if you know, whether the "Celtic Chief" was being moved by the steel cable of the Miller Salvage Co. running astern before you came on board. [807]
10. If you say that you were aboard the "Celtic Chief" just prior to her moving off the reef and that signals were to be given from the "Celtic Chief" to the "Arcona," please state, if you know, whether or not the "Celtic Chief" was being moved seaward before the signals were given from the "Celtic Chief" to the "Arcona" to start pulling.
11. If you answer that the "Celtic Chief" was moving seaward before the signals were given, please state what you know of your own

knowledge with regard to such fact.

12. Did you have, at that time, any ranges (shore lights or otherwise) by which you could determine the fact that the ship was moving seaward?
13. Have you ever had any experience in floating a vessel other than this one? If so, what experience have you had?
14. At the time that the "Celtic Chief" was floated and half an hour immediately prior thereto, did the "Arconia" have any strain on the lines from the "Arconia" to the "Celtic Chief," and if so, describe such strain as best you can and how long such strain continued?
15. If you answer that you knew of such facts, please state what means of observation you had during such half hour and what you were doing during that time.
16. Was there not an agreement between the officers of the "Arconia" and the officers of the "Celtic Chief" that signals should be given by some kind of fireworks, and if so, what were these signals if you know, and at what time were they given?
17. If you answer that you know what these signals were, was not one signal arranged as a signal for the "Arconia" to begin pulling on the "Celtic Chief," and was not another signal arranged which would indicate to the "Arconia" that the "Celtic Chief" was moving seaward? [808]
18. Was not another signal arranged to indicate to

the "Arcona" that the "Celtic Chief" was floating?

19. Was there not a time agreed upon by the officers of the "Arcona" and the "Celtic Chief" when the "Arcona" should be expected to be prepared to pull on the "Celtic Chief"?
20. If you answer in the affirmative, was not this time agreed upon the time of high tide on that night?
21. If so, what was the time in hours and minutes, if you know?
22. Were these signals as agreed upon given and, if so, when they were given were they not given so close together that there was a very small interval of time between them?
23. If you answer that there was a very small interval of time between the signals, were not these signals given so close together as to give you the impression as being practically a continuous set of signals?
24. If the foregoing do not state the facts in regard to the signals arranged and the method of carrying out the orders, tell all you know with regard to the signals arranged and the method of carrying out the orders.
25. How long was it before the first and the last signal, if you know?

Honolulu, T. H., July 9th, 1910.

[Endorsed]: No. 116. Cross-interrogatories to be Propounded to Capitaen Lieutenant Felix Maria Connemann by the Miller Salvage Co., Libellant. Filed July 9th, 1910. [809]